

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 300

Senator Wilson

A BILL

To amend sections 147.01, 147.011, 147.03, 147.14, 1
147.371, 147.53, 147.542, 147.55, 147.551, and 2
147.591 and to enact sections 147.49 and 147.50 3
of the Revised Code to amend the law regarding 4
notaries public. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 147.01, 147.011, 147.03, 147.14, 6
147.371, 147.53, 147.542, 147.55, 147.551, and 147.591 be 7
amended and sections 147.49 and 147.50 of the Revised Code be 8
enacted to read as follows: 9

Sec. 147.01. (A) The secretary of state may appoint and 10
commission as notaries public as many persons who meet the 11
qualifications of division (B) of this section as the secretary 12
of state considers necessary. 13

(B) In order for a person to qualify to be appointed and 14
commissioned as a notary public, the person shall demonstrate to 15
the secretary of state that the person satisfies all of the 16
following: 17

(1) The person has attained the age of eighteen years. 18

(2) (a) Except as provided in division (B) (2) (b) of this section, the person is a legal resident of this state. 19
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(b) The person is not a legal resident of this state, but is an attorney admitted to the practice of law in this state by the Ohio supreme court, and has the person's principal place of business or the person's primary practice in this state. 21
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(3) (a) Except as provided in division (B) (3) (b) of this section, the person has submitted a criminal records check report completed within the preceding six months in accordance with section 147.022 of the Revised Code demonstrating that the applicant has not been convicted of or pleaded guilty or no contest to a disqualifying offense as determined in accordance with section 9.79 of the Revised Code. 25
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(b) An attorney admitted to the practice of law in this state shall not be required to submit a criminal records check when applying to be appointed a notary public. 32
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(4) (a) Except as provided in divisions (B) (4) (b) and (c) of this section, the person has successfully completed an educational program and passed a test administered by the entities authorized by the secretary of state as required under section 147.021 of the Revised Code. 35
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(b) An attorney who is commissioned as a notary public in this state prior to September 20, 2019, shall not be required to complete an education program or pass a test as required in division (B) (4) (a) of this section. 40
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(c) Any attorney who applies to become commissioned as a notary public in this state after September 20, 2019, shall not be required to pass a test as required in division (B) (4) (a) of this section, but shall be required to complete an education 44
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program required by that division. 48

(C) A notary public shall be appointed and commissioned as 49
a notary public for the state. The secretary of state may revoke 50
a commission issued to a notary public upon presentation of 51
satisfactory evidence of official misconduct or incapacity. If 52
the secretary of state so revokes a person's commission, the 53
person is ineligible for reappointment to the office of notary 54
public. 55

(D) The secretary of state shall oversee the processing of 56
notary public applications and shall issue all notary public 57
commissions. The secretary of state shall oversee the creation 58
and maintenance of the online database of notaries public 59
commissioned in this state pursuant to section 147.051 of the 60
Revised Code. The secretary of state may perform all other 61
duties as required by this section. The entities authorized by 62
the secretary of state pursuant to section 147.021 or 147.63 of 63
the Revised Code shall administer the educational program and 64
required test or course of instruction and examination, as 65
applicable. 66

(E) All submissions to the secretary of state for 67
receiving and renewing commissions, or notifications made under 68
section 147.05 of the Revised Code, shall be done 69
electronically. 70

Sec. 147.011. As used in this chapter: 71

(A) "Acknowledgment" means a ~~notarial act in which the~~ 72
~~signer of the notarized document acknowledges all of the~~ 73
~~following:~~ 74

~~(1) That the signer has signed the document;~~ 75

~~(2) That the signer understands the document;~~ 76

~~(3) That the signer is aware of the consequences of~~ 77
~~executing the document by signing it~~ 78
~~declaration by an individual~~ 79
~~before a notary public that the individual has signed a record~~ 79
~~for the purpose stated in the record, and if the record is~~ 80
~~signed in a representative capacity, that the individual signed~~ 81
~~the record with proper authority and signed it as the act of the~~ 82
~~individual or entity identified in the record.~~ 83

(B) "Criminal records check" has the same meaning as in 84
section 109.572 of the Revised Code. 85

(C) "Jurat" means a notarial act in which both of the 86
following are met: 87

(1) The signer of the notarized document is required to 88
give an oath or affirmation that the statement in the notarized 89
document is true and correct; 90

(2) The signer signs the notarized document in the 91
presence of a notary public. 92

(D) "Notarial certificate" means the part of, or 93
attachment to, a document that is completed by the notary public 94
and upon which the notary public places the notary public's 95
signature and seal. 96

Sec. 147.03. Each notary public, except an attorney 97
admitted to the practice of law in this state by the Ohio 98
supreme court, shall hold office for the term of five years 99
unless the commission is revoked. An attorney admitted to the 100
practice of law in this state by the Ohio supreme court shall 101
hold office as a notary public as long as the attorney is a 102
resident of this state or has the attorney's principal place of 103
business or primary practice in this state, the attorney is in 104
good standing before the Ohio supreme court, and the commission 105

is not revoked. ~~Before entering upon the duties of office, a~~ 106
~~notary public shall take and subscribe an oath to be endorsed on~~ 107
~~the notary public's commission.~~ 108

~~A notary public who violates the oath of office required~~ 109
~~by this section shall be removed from office by the secretary of~~ 110
~~state, upon complaint filed and substantiated by the secretary~~ 111
~~of state. The person so removed shall be ineligible for~~ 112
~~reappointment to the office of notary public.~~ 113

Sec. 147.14. ~~No notary public shall certify to the~~ 114
~~affidavit of a person without administering the appropriate oath~~ 115
~~or affirmation to the person. A notary public who violates this~~ 116
~~section shall be removed from office by the secretary of state.~~ 117
~~The person so removed shall be ineligible to reappointment for a~~ 118
~~period of three years~~for failure to administer the appropriate 119
oath or affirmation to the signer when such verification on oath 120
or affirmation is required. 121

Sec. 147.371. (A) Upon receipt of a fee of two dollars ~~and~~ 122
~~an affidavit that the original commission of a notary public has~~ 123
~~been lost or destroyed~~and submission of the electronic duplicate 124
commission request form, a duplicate commission as notary public 125
shall be issued by the secretary of state. 126

(B) Upon receipt of a fee of two dollars and ~~the properly~~ 127
~~completed, prescribed form~~submission of the electronic 128
amendment form for a name and address change under division (B) 129
of section 147.05 of the Revised Code, the secretary of state 130
shall issue a duplicate commission as a notary public. 131

(C) The secretary of state shall prescribe and make 132
available an electronic duplicate commission request form and an 133
electronic amendment form. 134

Sec. 147.49. (A) A notary public who takes an 135
acknowledgment of a record shall determine, from personal 136
knowledge or satisfactory evidence of the identity of the person 137
acknowledging, that the person appearing before the notary 138
public and making the acknowledgment has the identity claimed 139
and that the signature on the record is the signature of the 140
person. 141

(B) A notary public who takes a verification of a 142
statement on oath or affirmation, a jurat, shall determine from 143
personal knowledge or satisfactory evidence of the identity of 144
the person making the verification, that the person appearing 145
before the notary public and making the verification has the 146
identity claimed and that the signature on the statement 147
verified is the signature of the person. 148

Sec. 147.50. (A) A notary public has personal knowledge of 149
the identity of the person appearing before the notary public if 150
the person is personally known to the notary public through 151
dealings sufficient to provide reasonable certainty that the 152
person has the identity claimed. 153

(B) A notary public has satisfactory evidence of the 154
identity of the person appearing before the notary public if the 155
notary public can identify the person by either of the following 156
means: 157

(1) A passport, driver's license, government-issued 158
nondriver identification card, or other form of government- 159
issued identification with the signature or photograph of the 160
individual, which is current or expired not more than three 161
years before performance of the notarial act, and is 162
satisfactory to the officer; 163

(2) By verification on oath or affirmation of a credible witness personally appearing before the notary public and known to the notary public or whom the notary public can identify on the basis of a passport, driver's license, or other government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act. 164
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(C) A notary public may require a person to provide additional information or identification credentials necessary to assure the notary public of the identity of the person. 171
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Sec. 147.53. The person taking an acknowledgment shall certify that: 174
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(A) The person acknowledging appeared before ~~him~~ the notary public, or person described in divisions (B) to (E) of section 147.51 of the Revised Code, and acknowledged ~~he executed~~ executing the instrument; 176
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(B) 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. 180
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Sec. 147.542. (A) A notary public shall provide a completed notarial certificate for every notarial act the notary public performs. 185
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(B) ~~For an acknowledgment and a jurat, the corresponding~~ The notarial certificate shall indicate the type of notarization being performed. 188
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(C) If a notarial certificate incorrectly indicates the type of notarization performed, the notary public shall provide 191
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a correct certificate at no charge to the person signing in question.	193 194
(D) (1) An acknowledgment certificate shall clearly state that no oath or affirmation was administered to the signer with regard to the notarial act.	195 196 197
(2) A jurat certificate shall clearly state that an oath or affirmation was administered to the signer with regard to the notarial act.	198 199 200
(E) (1) A notary public shall not use an acknowledgment certificate with regard to a notarial act in which an oath or affirmation has been administered.	201 202 203
(2) A notary public shall not use a jurat certificate with regard to a notarial act in which an oath or affirmation has not been administered.	204 205 206
(F) A certificate required under this section may be provided through any of the following means:	207 208
(1) Preprinting on a notarial document;	209
(2) Ink stamp;	210
(3) Handwritten note;	211
(4) A separate, attached document.	212
(G) A notarial certificate shall show all of the following information:	213 214
(1) The state and county venue where the notarization is being performed;	215 216
(2) The wording of the acknowledgment or jurat in question;	217 218

(3) The date on which the notarial act was performed;	219
(4) The signature of the notary, exactly as shown on the notary's commission;	220 221
(5) The notary's printed name, displayed below the notary's signature or inked stamp;	222 223
(6) The notary's notarial seal and commission expiration date;	224 225
(7) If an electronic document was signed in the physical presence of a notary and notarized pursuant to section 147.591 of the Revised Code, or if an online notarization was performed pursuant to sections 147.60 to 147.66 of the Revised Code, the certificate shall include a statement to that effect.	226 227 228 229 230
(H) A notary public may explain to a signer the difference between an acknowledgment and a jurat, but shall not, unless that notary is an attorney, advise the person on the type of notarial act that best suits a situation.	231 232 233 234
Sec. 147.55. Notwithstanding section 147.542 of the Revised Code, the <u>The</u> forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any section of the Revised Code. 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.	235 236 237 238 239 240 241
(A) For an individual acting in the individual's own right:	242 243
"State of _____	244
County of _____	245

The foregoing instrument was acknowledged before me this	246
(date) by (name of person acknowledging).	247
(Signature of person taking acknowledgment)	248
(Title or rank)"	249
(B) For a corporation:	250
"State of _____	251
County of _____	252
The foregoing instrument was acknowledged before me this	253
(date) by (name of officer or agent, title of officer or agent)	254
of (name of corporation acknowledging), a (state or place of	255
incorporation) corporation, on behalf of the corporation.	256
(Signature of person taking acknowledgment)	257
(Title or rank)"	258
(C) <u>For a limited liability company:</u>	259
<u>"State of _____</u>	260
<u>County of _____</u>	261
<u>The foregoing instrument was acknowledged before me this</u>	262
<u>(date) by (name of member or managing member, title of member or</u>	263
<u>managing member) of (name of limited liability company</u>	264
<u>acknowledging), a (jurisdiction of formation) limited liability</u>	265
<u>company, on behalf of the limited liability company.</u>	266
<u>(Signature of person taking acknowledgment)</u>	267
<u>(Title or rank)"</u>	268
<u>(D) For a partnership:</u>	269
"State of _____	270

County of _____	271
The foregoing instrument was acknowledged before me this	272
(date) by (name of acknowledging partner or agent), partner (or	273
agent) on behalf of (name of partnership), a partnership.	274
(Signature of person taking acknowledgment)	275
(Title or rank) "	276
(D) <u>(E)</u> For an individual acting as principal by an	277
attorney in fact:	278
"State of _____	279
County of _____	280
The foregoing instrument was acknowledged before me this	281
(date) by (name of attorney in fact) as attorney in fact on	282
behalf of (name of principal).	283
(Signature of person taking acknowledgment)	284
(Title or rank) "	285
(E) <u>(F)</u> By any public officer, trustee, or personal	286
representative:	287
"State of _____	288
County of _____	289
The foregoing instrument was acknowledged before me this	290
(date) by (name and title of position).	291
(Signature of person taking acknowledgment)	292
(Title or rank) "	293
Sec. 147.551. Notwithstanding section 147.542 of the	294
Revised Code, a <u>A</u> jurat may take the following form:	295

"State of Ohio	296
County of _____	297
Sworn to or affirmed and subscribed before me by	298
(signature <u>name</u> of person making jurat <u>signer</u>) this date of	299
(date).	300
(Signature of notary public administering jurat)	301
(Affix seal here)	302
(Title of rank)	303
(Commission expiration date)"	304
Sec. 147.591. (A) As used in this section, "electronic	305
document," "electronic seal," "electronic signature," and	306
"online notarization" have the same meanings as in section	307
147.60 of the Revised Code.	308
(B) (1) An electronic document that is signed in the	309
physical presence of the notary public with an electronic	310
signature and notarized with an electronic seal shall be	311
considered an original document.	312
(2) Notwithstanding any other provision of the Revised	313
Code to the contrary, a digital copy of a document executed	314
electronically by the parties and acknowledged or sworn before a	315
notary acting pursuant to this section shall be accepted by	316
county auditors, <u>clerks of courts of record, deputy registrars,</u>	317
engineers, and recorders for purposes of approval, transfer, and	318
recording to the same extent as any other document that is	319
submitted by an electronic recording method and shall not be	320
rejected solely by reason of containing electronic signatures or	321
an electronic notarization, including an online notarization.	322

(3) A county auditor, clerk of a court of record, deputy registrar, engineer, and recorder shall accept a printed document that was executed electronically for purposes of approval, transfer, and recording if that document contains an attached authenticator certificate in the following, or a substantially similar, format:

"AUTHENTICATOR CERTIFICATE

I certify and warrant that the foregoing and annexed paper document being presented for record, to which this certification is attached, represents a true, exact, complete, and unaltered copy of the original electronic document. The county offices of the auditor, treasurer, recorder, and others necessary to effectuate the transfer and recording of the instrument shall be entitled to rely on such certification and warranty for all purposes.

_____ [signature of authenticator]
_____ [printed name of authenticator]
_____ [street address of authenticator]
_____ [city, state, zip code of authenticator]
_____ [telephone number of authenticator]

B) :ss

C County of _____)

The foregoing authenticator certificate was subscribed and 346
sworn to in my presence by _____ [printed 347
name of authenticator] on this ____ day of _____, 20__ 348

_____ 349

Notary Public" 350

(C) An authenticator certificate may not be signed or 351
notarized with an electronic signature or electronic seal. 352

(D) Any notary public may obtain an electronic seal and an 353
electronic signature for the purposes of notarizing documents 354
under this section. 355

~~(D)~~(E) A notary public shall comply with the provisions 356
of section 147.66 of the Revised Code pertaining to the 357
electronic seal and electronic signature. 358

Section 2. That existing sections 147.01, 147.011, 147.03, 359
147.14, 147.371, 147.53, 147.542, 147.55, 147.551, and 147.591 360
of the Revised Code are hereby repealed. 361