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Sub. S. B. No. 300

Senator Wilson

Cosponsors: Senators Antonio, Blessing, Cirino, Craig, Dolan, Gavarone, Hackett, Hicks-Hudson, Huffman, S., Johnson, Kunze, Lang, Maharath, Manning, Peterson, Reineke, Roegner, Rulli, Schuring, Sykes, Thomas, Yuko

A BILL

To amend sections 147.01, 147.011, 147.03, 147.14, 147.141, 147.371, 147.53, 147.542, 147.55, 147.551, and 147.591 and to enact sections 147.49 and 147.50 of the Revised Code to amend the law regarding notaries public.

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

Section 1. That sections 147.01, 147.011, 147.03, 147.14, 147.141, 147.371, 147.53, 147.542, 147.55, 147.551, and 147.591 be amended and sections 147.49 and 147.50 of the Revised Code be enacted to read as follows:

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

(B) In order for a person to qualify to be appointed and

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 19
section, the person is a legal resident of this state. 20

(b) The person is not a legal resident of this state, but 21
is an attorney admitted to the practice of law in this state by 22
the Ohio supreme court, and has the person's principal place of 23
business or the person's primary practice in this state. 24

(3) (a) Except as provided in division (B) (3) (b) of this 25
section, the person has submitted a criminal records check 26
report completed within the preceding six months in accordance 27
with section 147.022 of the Revised Code demonstrating that the 28
applicant has not been convicted of or pleaded guilty or no 29
contest to a disqualifying offense as determined in accordance 30
with section 9.79 of the Revised Code. 31

(b) An attorney admitted to the practice of law in this 32
state shall not be required to submit a criminal records check 33
when applying to be appointed a notary public. 34

(4) (a) Except as provided in divisions (B) (4) (b) and (c) 35
of this section, the person has successfully completed an 36
educational program and passed a test administered by the 37
entities authorized by the secretary of state as required under 38
section 147.021 of the Revised Code. 39

(b) An attorney who is commissioned as a notary public in 40
this state prior to September 20, 2019, shall not be required to 41
complete an education program or pass a test as required in 42
division (B) (4) (a) of this section. 43

(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 program required by that division.

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

(D) Before entering upon the duties of office, a notary public shall do either of the following:

(1) Personally appear before an officer, authorized by law to administer oaths, who shall administer an oath of office to the notary public;

(2) Certify on the notary commission under penalty of perjury that the applicant will abide by the terms of the oath of office of a notary public.

(E) The secretary of state shall oversee the processing of notary public applications and shall issue all notary public commissions. The secretary of state shall oversee the creation and maintenance of the online database of notaries public commissioned in this state pursuant to section 147.051 of the Revised Code. The secretary of state may perform all other duties as required by this section. The entities authorized by the secretary of state pursuant to section 147.021 or 147.63 of the Revised Code shall administer the educational program and

required test or course of instruction and examination, as 73
applicable. 74

~~(E)~~ (F) All submissions to the secretary of state for 75
receiving and renewing commissions, or notifications made under 76
section 147.05 of the Revised Code, shall be done 77
electronically. 78

Sec. 147.011. As used in this chapter: 79

(A) "Acknowledgment" means a ~~notarial act in which the~~ 80
~~signer of the notarized document acknowledges all of the~~ 81
~~following:~~ 82

~~(1) That the signer has signed the document;~~ 83

~~(2) That the signer understands the document;~~ 84

~~(3) That the signer is aware of the consequences of~~ 85
~~executing the document by signing it~~declaration by an individual 86
before a notary public that the individual has signed a record 87
for the purpose stated in the record, and if the record is 88
signed in a representative capacity, that the individual signed 89
the record with proper authority and signed it as the act of the 90
individual or entity identified in the record. 91

(B) "Criminal records check" has the same meaning as in 92
section 109.572 of the Revised Code. 93

(C) "Jurat" means a notarial act in which both of the 94
following are met: 95

(1) The signer of the notarized document is required to 96
give an oath or affirmation that the statement in the notarized 97
document is true and correct; 98

(2) The signer signs the notarized document in the 99

presence of a notary public. 100

(D) "Notarial certificate" means the part of, or 101
attachment to, a document that is completed by the notary public 102
and upon which the notary public places the notary public's 103
signature and seal. 104

Sec. 147.03. Each notary public, except an attorney 105
admitted to the practice of law in this state by the Ohio 106
supreme court, shall hold office for the term of five years 107
unless the commission is revoked. An attorney admitted to the 108
practice of law in this state by the Ohio supreme court shall 109
hold office as a notary public as long as the attorney is a 110
resident of this state or has the attorney's principal place of 111
business or primary practice in this state, the attorney is in 112
good standing before the Ohio supreme court, and the commission 113
is not revoked. ~~Before entering upon the duties of office, a~~ 114
~~notary public shall take and subscribe an oath to be endorsed on~~ 115
~~the notary public's commission.~~ 116

~~A notary public who violates the oath of office required~~ 117
~~by this section shall be removed from office by the secretary of~~ 118
~~state, upon complaint filed and substantiated by the secretary~~ 119
~~of state. The person so removed shall be ineligible for~~ 120
~~reappointment to the office of notary public.~~ 121

Sec. 147.14. ~~No notary public shall certify to the~~ 122
~~affidavit of a person without administering the appropriate oath~~ 123
~~or affirmation to the person. A notary public who violates this~~ 124
~~section shall be removed from office by the secretary of state.~~ 125
~~The person so removed shall be ineligible to reappointment for a~~ 126
~~period of three years~~subject to investigation and penalties 127
pursuant to section 147.032 of the Revised Code for failure to 128
administer the appropriate oath or affirmation to the signer 129

<u>when such verification on oath or affirmation is required.</u>	130
Sec. 147.141. (A) A notary public shall not do any of the	131
following:	132
(1) Perform a notarial act with regard to a record or	133
document executed by the notary;	134
(2) Notarize the notary's own signature;	135
(3) Take the notary's own deposition;	136
(4) Perform a notarial act if the notary has a conflict of	137
interest with regard to the transaction in question;	138
(5) Certify that a document is either of the following:	139
(a) An original document;	140
(b) A true copy of another record.	141
(6) Use a name or initial in signing certificates other	142
than that by which the notary public is commissioned;	143
(7) Sign notarial certificates using a facsimile signature	144
stamp unless the notary public has a physical disability that	145
limits or prohibits the notary's ability to make a written	146
signature and unless the notary has first submitted written	147
notice to the secretary of state with an example of the	148
facsimile signature stamp;	149
(8) Affix the notary's signature to a blank form of an	150
affidavit or certificate of acknowledgment and deliver that form	151
to another person with the intent that it be used as an	152
affidavit or acknowledgment;	153
(9) Take the acknowledgment of, or administer an oath or	154
affirmation to, a person who the notary public knows to have	155
been adjudicated mentally incompetent by a court of competent	156

jurisdiction, if the acknowledgment or oath or affirmation necessitates the exercise of a right that has been removed;	157 158
(10) Notarize a signature on a document if it appears that the person is mentally incapable of understanding the nature and effect of the document at the time of notarization;	159 160 161
(11) Alter anything in a written instrument after it has been signed by anyone;	162 163
(12) Amend or alter a notarial certificate after the notarization is complete;	164 165
(13) Notarize a signature on a document if the document is incomplete or blank;	166 167
(14) Notarize a signature on a document if it appears that the signer may be unduly influenced or coerced so as to be restricted from or compromised in exercising the person's own free will when signing the document;	168 169 170 171
(15) Take an acknowledgment of execution in lieu of an oath or affirmation if an oath or affirmation is required;	172 173
(16) Determine the validity of a power of attorney document or any other form designating a representative capacity, such as trustee, authorized officer, agent, personal representative, or guardian, unless that notary is an attorney licensed to practice law in this state;	174 175 176 177 178
<u>(17) Notarize for any person with whom the notary public cannot directly communicate in the same language, regardless of the presence of a third-party interpreter or translator.</u>	179 180 181
(B) Division (A) (5) of this section shall not be construed as prohibiting a notary from notarizing the signature of a holder of a document on a written statement certifying that the	182 183 184

document is a true copy of an original document. 185

(C) As used in this section, "conflict of interest" means 186
either of the following: 187

(1) The notary has a direct financial or other interest in 188
the transaction in question, excluding the fees authorized under 189
this chapter. 190

(2) The notary is named, individually or as a grantor, 191
grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, 192
vendor, lessor, or lessee, or as a party in some other capacity 193
to the transaction. 194

Sec. 147.371. (A) Upon receipt of a fee of two dollars ~~and~~ 195
~~an affidavit that the original commission of a notary public has~~ 196
~~been lost or destroyed~~and submission of the electronic duplicate 197
commission request form, a duplicate commission as notary public 198
shall be issued by the secretary of state. 199

(B) Upon receipt of a fee of two dollars ~~and the properly-~~ 200
~~completed, prescribed form~~ submission of the electronic 201
amendment form for a name and address change under division (B) 202
of section 147.05 of the Revised Code, the secretary of state 203
shall issue a duplicate commission as a notary public. 204

(C) The secretary of state shall prescribe and make 205
available an electronic duplicate commission request form and an 206
electronic amendment form. 207

Sec. 147.49. (A) A notary public who takes an 208
acknowledgment of a record shall determine, from personal 209
knowledge or satisfactory evidence of the identity of the person 210
acknowledging, that the person appearing before the notary 211
public and making the acknowledgment has the identity claimed 212
and that the signature on the record is the signature of the 213

person. 214

(B) A notary public who takes a verification of a 215
statement on oath or affirmation, a jurat, shall determine from 216
personal knowledge or satisfactory evidence of the identity of 217
the person making the verification, that the person appearing 218
before the notary public and making the verification has the 219
identity claimed and that the signature on the statement 220
verified is the signature of the person. 221

Sec. 147.50. (A) A notary public has personal knowledge of 222
the identity of the person appearing before the notary public if 223
the person is personally known to the notary public through 224
dealings sufficient to provide reasonable certainty that the 225
person has the identity claimed. 226

(B) A notary public has satisfactory evidence of the 227
identity of the person appearing before the notary public if the 228
notary public can identify the person by either of the following 229
means: 230

(1) A passport, driver's license, government-issued 231
nondriver identification card, or other form of government- 232
issued identification with the signature or photograph of the 233
individual, which is current or expired not more than three 234
years before performance of the notarial act, and is 235
satisfactory to the officer; 236

(2) By verification on oath or affirmation of a credible 237
witness personally appearing before the notary public and known 238
to the notary public or whom the notary public can identify on 239
the basis of a passport, driver's license, or other government- 240
issued nondriver identification card, which is current or 241
expired not more than three years before performance of the 242

<u>notarial act.</u>	243
<u>(C) A notary public may require a person to provide</u>	244
<u>additional information or identification credentials necessary</u>	245
<u>to assure the notary public of the identity of the person.</u>	246
Sec. 147.53. The person taking an acknowledgment shall	247
certify that:	248
(A) The person acknowledging appeared before him <u>the</u>	249
<u>notary public, or person described in divisions (B) to (E) of</u>	250
<u>section 147.51 of the Revised Code, and acknowledged he executed</u>	251
<u>executing</u> the instrument;	252
(B) The person acknowledging was known to the person	253
taking the acknowledgment, or that the person taking the	254
acknowledgment had satisfactory evidence that the person	255
acknowledging was the person described in and who executed the	256
instrument.	257
Sec. 147.542. (A) A notary public shall provide a	258
completed notarial certificate for every notarial act the notary	259
public performs.	260
(B) For an acknowledgment and a jurat, the corresponding	261
notarial certificate shall indicate the type of notarization	262
being performed.	263
(C) If a notarial certificate incorrectly indicates the	264
type of notarization performed, the notary public shall provide	265
a correct certificate at no charge to the person signing in	266
question.	267
(D) (1) An acknowledgment certificate shall clearly state	268
that no oath or affirmation was administered to the signer with	269
regard to the notarial act.	270

~~(2)~~ (C) A jurat certificate shall ~~clearly~~ state that an oath or affirmation was administered to the signer with regard to the notarial act.

~~(E)~~ ~~(1)~~ (D) (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.

(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.

~~(F)~~ (E) A certificate required under this section may be provided through any of the following means:

- (1) Preprinting on a notarial document;
- (2) Ink stamp;
- (3) Handwritten note;
- (4) A separate, attached document.

~~(G)~~ (F) A notarial certificate shall show all of the following information:

- (1) The state and county venue where the notarization is being performed;
- (2) The wording of the acknowledgment or jurat in question;
- (3) The date on which the notarial act was performed;
- (4) The signature of the notary, exactly as shown on the notary's commission;
- (5) The notary's printed name, displayed below the notary's signature or inked stamp;

(6) The notary's notarial seal and commission expiration date;	297 298
(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.	299 300 301 302 303
(H) (G) 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.	304 305 306 307
Sec. 147.55. Notwithstanding section 147.542 of the Revised Code, the The 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.	308 309 310 311 312 313 314
(A) For an individual acting in the individual's own right:	315 316
"State of _____	317
County of _____	318
The foregoing instrument was acknowledged before me this (date) by (name of person acknowledging).	319 320
(Signature of person taking acknowledgment)	321
(Title or rank)"	322
(B) For a corporation:	323

"State of _____	324
County of _____	325
The foregoing instrument was acknowledged before me this	326
(date) by (name of officer or agent, title of officer or agent)	327
of (name of corporation acknowledging), a (state or place of	328
incorporation) corporation, on behalf of the corporation.	329
(Signature of person taking acknowledgment)	330
(Title or rank)"	331
(C) <u>For a limited liability company:</u>	332
"State of _____	333
County of _____	334
<u>The foregoing instrument was acknowledged before me this</u>	335
<u>(date) by (name of member or managing member, title of member or</u>	336
<u>managing member) of (name of limited liability company</u>	337
<u>acknowledging), a (jurisdiction of formation) limited liability</u>	338
<u>company, on behalf of the limited liability company.</u>	339
<u>(Signature of person taking acknowledgment)</u>	340
<u>(Title or rank)"</u>	341
<u>(D) For a partnership:</u>	342
"State of _____	343
County of _____	344
The foregoing instrument was acknowledged before me this	345
(date) by (name of acknowledging partner or agent), partner (or	346
agent) on behalf of (name of partnership), a partnership.	347
(Signature of person taking acknowledgment)	348

(Title or rank) "	349
(D) <u>(E)</u> For an individual acting as principal by an attorney in fact:	350
"State of _____	352
County of _____	353
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).	354
(Signature of person taking acknowledgment)	355
(Title or rank) "	356
(E) <u>(F)</u> By any public officer, trustee, or personal representative:	357
"State of _____	358
County of _____	359
The foregoing instrument was acknowledged before me this (date) by (name and title of position).	360
(Signature of person taking acknowledgment)	361
(Title or rank) "	362
Sec. 147.551. Notwithstanding section 147.542 of the Revised Code, a <u>A</u> jurat may take the following form:	363
"State of Ohio	364
County of _____	365
Sworn to or affirmed and subscribed before me by (signature name of person making jurat <u>signer</u>) this date of (date).	366
	367
	368
	369
	370
	371
	372
	373

(Signature of notary public administering jurat)	374
(Affix seal here)	375
(Title of rank)	376
(Commission expiration date)"	377
Sec. 147.591. (A) As used in this section, "electronic	378
document," "electronic seal," "electronic signature," and	379
"online notarization" have the same meanings as in section	380
147.60 of the Revised Code.	381
(B) (1) An electronic document that is signed in the	382
physical presence of the notary public with an electronic	383
signature and notarized with an electronic seal shall be	384
considered an original document.	385
(2) Notwithstanding any other provision of the Revised	386
Code to the contrary, a digital copy of a document executed	387
electronically by the parties and acknowledged or sworn before a	388
notary acting pursuant to this section shall be accepted by	389
county auditors, <u>clerks of courts of record, deputy registrars,</u>	390
engineers, and recorders for purposes of approval, transfer, and	391
recording to the same extent as any other document that is	392
submitted by an electronic recording method and shall not be	393
rejected solely by reason of containing electronic signatures or	394
an electronic notarization, including an online notarization.	395
(3) A county auditor, <u>clerk of a court of record, deputy</u>	396
<u>registrar,</u> engineer, and recorder shall accept a printed	397
document that was executed electronically for purposes of	398
approval, transfer, and recording if that document contains an	399
attached <u>authenticator</u> certificate in the following, or a	400
substantially similar, format:	401

"AUTHENTICATOR CERTIFICATE 402

I certify and warrant that the foregoing and annexed paper 403
document being presented for record, to which this certification 404
is attached, represents a true, exact, complete, and unaltered 405
copy of the original electronic document. The county offices of 406
the auditor, treasurer, recorder, and others necessary to 407
effectuate the transfer and recording of the instrument shall be 408
entitled to rely on such certification and warranty for all 409
purposes. 410

_____ [signature of authenticator] 411

_____ [printed name of authenticator] 412

_____ [street address of authenticator] 413

_____ [city, state, zip code of 414
authenticator] 415

_____ [telephone number of 416
authenticator] 417

418

1

2

A State of _____)

B) :ss

C County of _____)

The foregoing authenticator certificate was subscribed and 419
sworn to in my presence by _____ [printed 420
name of authenticator] on this ____ day of _____, 20__ 421

_____	422
Notary Public"	423
(C) <u>An authenticator certificate may not be signed or</u>	424
<u>notarized with an electronic signature or electronic seal.</u>	425
(D) Any notary public may obtain an electronic seal and an	426
electronic signature for the purposes of notarizing documents	427
under this section.	428
(D) -(E) A notary public shall comply with the provisions	429
of section 147.66 of the Revised Code pertaining to the	430
electronic seal and electronic signature.	431
Section 2. That existing sections 147.01, 147.011, 147.03,	432
147.14, 147.141, 147.371, 147.53, 147.542, 147.55, 147.551, and	433
147.591 of the Revised Code are hereby repealed.	434