

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Notary Public Records
- 2) Code Citation: 14 Ill. Adm. Code 176
- 3)

<u>Section Number:</u>	<u>Adopted Actions:</u>
176.10	Amendment
176.205	Amendment
176.300	Amendment
176.600	Amendment
176.805	Amendment
176.900	Amendment
176.980	Amendment
176.ILLUSTRATION C	New Section
- 4) Statutory Authority: Implemented and authorized by Section 1-104 of the Illinois Notary Public Act [5 ILCS 312].
- 5) Effective Date of Rule: January 1, 2025
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 48 Ill. Reg. 12154; August 16, 2024
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between proposal and final version:

In Section 176.10, the definition of ARDC has been unitalicized.

In 176.205(e), changed the first line to "In accordance with Section 2-101.5(c) of the Act, licensed attorneys in good standing with the ARDC, current Illinois court or federal court".

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In subsections 176.205(e), 176.300(c)(6)(B)(i) and 176.ILLUSTRATION C, all references to "U.S." were changed to "federal".

In Subsection 176.205(e) and 176.300(c)(6)(B)(i), all references to "active" court personnel were changes to "current Illinois court or federal court".

In 176.300(c)(6)(B)(ii), we added a period at the end.

In 176.805(k)(10), we changed "such as " to " that includes, but is not limited to," changed the comma to "and", and deleted ", and other similar information, as specified".

In 176.900(g)(5), we added "(See 5 ILCS 312/3-107.)" at the end.

In 176.900(h), we deleted "this" in front of "subsection (g)" and deleted "subparagraphs (1) through (5) of this".

In 176.980(f), we changed "below" to "in this subsection (f)" and changes "subsection" to "Section" in the last line.

In 176.ILLUSTRATION C, we changed ", a law firm located in Illinois, an Illinois State's Attorney's Office, Illinois Public Defender's Office, Illinois Attorney General, or other similar firm or agency." to "Currently employed by an Illinois licensed attorney (e.g., law firm located in Illinois, Illinois State's Attorney's Office, Illinois Public Defender's Office, Illinois Attorney General)."

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this Rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Senate Bill 3513 eliminates the requirement for licensed attorneys in good standing with the ARDC or Illinois and U.S. court judges or employees of either who have read and understood the version of the Notary Illinois Public Act to complete a course of study at renewal of a notary public commission. This amendment updates the rule to reflect the changes made by SB3513. In addition, P.A. 103-0562 eliminates the journal requirements for certain situations. Lastly, based on information from stakeholders, SOS now requires a cybersecurity plan, business

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continuity plan, and business termination and succession plan as part of the approval process for electronic notarization system providers.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Pamela Wright
Rules Coordinator
Office of the General Counsel
298 Howlett Building
Springfield, IL 62756

(217) 785-3094
pwright@ilsos.gov

The full text of the Adopted Amendments begins on the next page:

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 176
NOTARY PUBLIC RECORDS

SUBPART A: NOTARY PUBLIC RECORDS

Section

- 176.10 Definitions
- 176.11 Record Contents, Request Procedures, and Fees

SUBPART B: APPOINTMENTS

Section

- 176.100 Appointment and Reappointment of Notaries Public
- 176.110 Term of Commission
- 176.120 Requirements to Qualify as a Resident of the State of Illinois
- 176.130 Nonresident Application for Appointment

SUBPART C: COURSE OF STUDY AND EXAMINATION

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- 176.200 Definitions
- 176.205 Course of Study and Examination
- 176.210 Course of Study and Examination – Provider Certification Required
- 176.215 Applicants' and Providers' Requirements for Notary Public Course of Study and Examination
- 176.220 Notary Public Course of Study and Examination – Provider Names
- 176.225 Notary Public Course of Study and Examination – Required Instruction and Content
- 176.230 Notary Public Course of Study and Examination – Student Contracts
- 176.235 Course Provider Verification of Student Identity and Course Completion
- 176.240 Notary Public Course of Study – Provider Website and Security Requirements
- 176.245 Enforcement
- 176.250 Hearings
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176.300	Application for Notary Public and Electronic Notary Public Commissions
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176.320	Appointment Fee
176.330	Oath
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176.410	Application for Remittance Agent's License and Renewal
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SUBPART H: REMOTE NOTARIAL ACTS

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SUBPART I: ELECTRONIC NOTARIZATIONS

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176.800	Electronic Notary Public Commission Required
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176.805	Electronic Notarization System Provider Registration, Information Submitted for Registration, and Confidentiality of Certain Information
176.810	Information Required in Electronic Seal, Electronic Documents Made Tamper-Evident, and Notation Required if Audio-Video Communication Is Used to Perform Notarial Acts
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176.900	Journal Requirements
176.910	Journal Entries and Prohibited Entries

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176.ILLUSTRATION A	Nonresident Notary Public Affidavit of Applicant
176.ILLUSTRATION B	Notary Public Course of Study and Examination Provider Surety Bond Form
<u>176.ILLUSTRATION C</u>	<u>Exemption from Notary Public Study Course Requirements</u>

AUTHORITY: Implemented and authorized by Section 1-104 of the Illinois Notary Public Act [5 ILCS 312].

SOURCE: Adopted at 11 Ill. Reg. 19705, effective December 1, 1987; amended at 13 Ill. Reg. 5197, effective April 1, 1989; amended at 45 Ill. Reg. 6274, effective April 28, 2021; amended at 47 Ill. Reg. 8640, effective June 5, 2023; amended at 49 Ill. Reg. 584, effective January 1, 2025.

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SUBPART A: NOTARY PUBLIC RECORDS

Section 176.10 Definitions

For purposes of this Section, all words and terms shall have the same meanings as set forth in 5 ILCS 312/1-104:

"Act" means The Illinois Notary Public Act. [5 ILCS 312]

"ARDC" means the Illinois Attorney Registration and Discipline Commission.

"Biometric data" or "biometric identifier" means *a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry. Biometric identifiers do not include writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions such as height, weight, hair color, or eye color. Biometric identifiers do not include donated organs, tissues, or parts as defined in the Illinois Anatomical Gift Act or blood or serum stored on behalf of recipients or potential recipients of living or cadaveric transplants and obtained or stored by a federally designated organ procurement agency. Biometric identifiers do not include biological materials regulated under the Genetic Information Privacy Act. Biometric identifiers do not include information captured from a patient in a health care setting or information collected, used, or stored for health care treatment, payment or operations under the federal Health Insurance Portability and Accountability Act of 1996. Biometric identifiers do not include an X-ray, roentgen process, computed tomography, MRI, PET scan, mammography, or other image or film of the human anatomy used to diagnose, prognose, or treat an illness or other medical condition or to further validate scientific testing or screening.* [740 ILCS 14/10]

"Biometric information" means *any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual. Biometric information does not include information derived from items or procedures excluded under the definition of biometric identifiers.* [740 ILCS 14/10]

"Notary public" or "notary" means *an individual commissioned to perform notarial acts.* [5 ILCS 312/1-104]

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"Personal information" or "personally identifiable information" means either of the following:

An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired without authorization through the breach of security:

Social Security number;

Driver's license number or State identification card number;

Account number or credit or debit card number, or an account number or credit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account;

Medical information;

Health insurance information;

Unique biometric data means data generated from measurements or technical analysis of human body characteristics used by the owner or licensee to authenticate an individual, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data. [815 ILCS 530/5]

User name or email address means information provided in combination with a password or security question and answer that would permit access to an online account when either the user name or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.

"Personal information" does not include publicly available information that is

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lawfully made available to the general public from federal, State, or local government records. [815 ILCS 530/5]

"Physical location" means real property, non-movable structure, brick and mortar building affixed to a permanent location.

"Secretary" – means the Illinois Secretary of State.

"X.509" means the standard format of a public key certificate derived from the International Telecommunication Union, "Series X: Data Networks, Open System Communications and Security Directory" (<https://www.itu.int/rec/T-REC-X.509-201910-I>) (2019) (no later editions or amendments included).

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

SUBPART C: COURSE OF STUDY AND EXAMINATION

Section 176.205 Course of Study and Examination

- a) Beginning January 1, 2024, applicants seeking a commission as either a notary public or an electronic notary public must first successfully complete a course of study and acquire a passing score on the examination, as required by 5 ILCS 312/2-101.5. The applicant will have two2 years from the date of the examination to apply for a notary public or electronic notary public commission. Once the course of study and examination have been successfully completed and the commission has been issued, the certificate or other proof of successful completion of the course of study and examination will remain valid for the duration of the notary's four-year commission.
- b) The Secretary of State may authorize the provision of a course of study for the mandatory training of notaries public and electronic notaries public by qualified third parties subject to this Subpart.
- c) To be accepted by the Secretary, the course of study must be taught by a provider or instructor certified by the Secretary.
- d) The course of study and examination must consist of the instruction and questions identified in Section 176.225.

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- e) In accordance with Section 2-101.5(c) of the Act, licensed attorneys in good standing with the ARDC, current Illinois court or federal court judges, or applicants that are employed by a licensed attorney in good standing with the ARDC or an Illinois or federal court who are renewing their Notary Public commission are not required to complete a course of study or pass an examination, if the applicant submits a signed statement using a form designated by the Secretary of State indicating the applicant is a licensed attorney in good standing with the ARDC, current Illinois court or federal judge, or employed by a licensed attorney in good standing with the ARDC or an Illinois or federal court and that applicant has read and understood the version of the Act in effect at the time of application.

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

SUBPART D: NOTARY PUBLIC APPLICATION REQUIREMENTS

Section 176.300 Application for Notary Public and Electronic Notary Public Commissions

- a) Applications for a traditional notary public commission. All individuals applying for a traditional notary public commission shall use the application prescribed by the Secretary of State and shall include, at a minimum, the information required by 5 ILCS 312/2-102.
- b) Remote notarization. *Any notary appointed under subsection (a) shall have the authority to conduct remote notarizations.* [5 ILCS 312/2-102(b)]
- c) Application for electronic notary public commission. *An application for an electronic notary public commission must be filed with the Secretary of State as required by this Subpart D [5 ILCS 312/2-102(c)].* In addition, an applicant for an electronic notary public commission must provide the following:
- 1) The notary public commission number assigned to the person by the Secretary of State, unless the applicant is applying for the notary public commission and electronic notary public commission at the same time under 5 ILCS 312/2-101(c);
 - 2) The names of all electronic notarization system providers that the applicant intends to use to perform electronic notarial acts;

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- 3) A copy of the electronic signature of the person that is:
 - A) an exact representation of the handwritten signature of the person already on file or currently being filed with the Secretary of State; and
 - B) in a format that identifies the electronic notarization system provider that prepared the electronic signature and can be read without additional software and be compared for authentication purposes to the person's handwritten signature on file or being filed with the Secretary;
- 4) A statement certifying that the applicant:
 - A) Will comply with the standards set forth by Section 176.835 relating to identity proofing and credential analysis;
 - B) Will use a third-party provider who has been certified to act as an electronic notarization system provider in the State of Illinois by the Secretary; and
 - C) Will, upon request by the Secretary, promptly provide any necessary instructions or techniques supplied by a provider that will allow the electronic notary public's digital certificate and electronic seal to be read and authenticated.
- 5) A disclosure of all disciplinary actions, convictions, or administrative actions taken against the applicant;
- 6) One of the forms listed below:
 - A) A certificate or other proof of successful completion of the course of study required under 5 ILCS 312/2-101.5(a), which indicates successful completion of the course within the two~~2~~ years preceding the submission of the application for an electronic notary public commission; or~~and~~
 - B) A signed statement in a format designated by the Secretary of State that the applicant:

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- i) is a licensed attorney in good standing with the ARDC or a current Illinois court or federal court judge or is employed by a licensed attorney in good standing with the ARDC or an Illinois or federal court; and
 - ii) has read and understood the version of the Act that is in effect at the time of application pursuant to 5 ILCS 312/2-101.5(c).
- 7) A statement certifying that the person will comply with the applicable provisions of the Act, including Article VI-A.
- d) A person may not perform an electronic notarial act, unless:
 - 1) The Secretary has approved the applicant's application for an electronic notary public commission; and
 - 2) The Secretary has approved the registration of the proposed electronic notarization system provider.
- e) Incomplete applications. If an application for appointment as a notary public or electronic notary public is incomplete, the Secretary of State will retain the application for at least one+ year from the date of receipt of the application. If the applicant does not complete the application within one+ year from the date of receipt of the application, the Secretary of State may deny the application and mail a notice of denial to the applicant.
- f) Assignment of Commission Number.
 - 1) The Secretary of State will assign a unique commission number to each original commission certificate. The commission number, which will be used to identify the notary public whose name appears on the commission certificate, must remain assigned to the notary public throughout the period of the appointment and must be included on each duplicate or amended commission certificate issued to the notary public by the Secretary of State.

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- 2) If a notary public applies for a subsequent period of appointment, a new number must be assigned.
- 3) A notary public that is also commissioned as an electronic notary public will have the same commission number for both commissions.
- g) After an application for an electronic notary public commission has been approved, the electronic notary public will be required to notify the Office of the Secretary of State, on a form designated by the Secretary, if the electronic notary public elects to add any other electronic notary system provider.

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

SUBPART G: NOTARIAL ACTS

Section 176.600 Notarial Certificates

- a) **Minimum requirements.** For a notarial certificate to be sufficient, it must contain the information required under 5 ILCS 312/6-103.
- b) **Additional Information.** A notarial certificate may contain additional or other information as may be required to satisfy any legal requirements, ethical or legal concerns, or the business needs of the parties to the transaction.
- c) **Permanently and Securely Attached.** A notarial certificate must be stamped, stapled, grommated, or otherwise permanently bound to the tangible document in a tamper-evident manner. The use of tape, paper clips, or binder clips is not permitted.
- d) **Legible Signature Required.** When signing a paper certificate, the notary public shall use a legible, recognizable handwritten signature in blue or black ink that can be attributed to the notary public performing the notarial act by anyone examining or authenticating the signature. If a notary public's preferred signature is not legible and recognizable, the notary public must also legibly print the notary public's name immediately adjacent to the signature. In this chapter, a signature is legible and recognizable if the letters are distinct and easily readable, and the notary public's full name may be clearly discerned by looking at the signature.

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

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SUBPART I: ELECTRONIC NOTARIZATIONS

Section 176.805 Electronic Notarization System Provider Registration, Information Submitted for Registration, and Confidentiality of Certain Information

- a) Certification Required to Provide Electronic Notarization Systems. No person or entity may provide electronic notarization systems under 5 ILCS 312/6A-101 unless certified as a provider by the Secretary of State. All certified providers must apply for certification on an annual, calendar-year basis, with applications for recertification due in the Secretary's office not later than September 1 of each year. Nothing in this Part is intended to prohibit a governmental entity from developing an internal electronic notarization system that complies with the requirement in this Part for certification.
- b) Who May Provide Electronic Notarization Systems. Without regard to the specific business operations of the provider, all certified system providers under this Section shall be responsible for ensuring that all of the duties and responsibilities of the system provider are carried out in accordance with this Part. System providers may provide these services through their own resources, through a subsidiary, or through contractual relationships with third parties.
- c) The Secretary of State shall be solely responsible for certifying providers that apply for certification with the Secretary. Persons or entities desiring to be certified as providers may apply for certification at any time. An application for certification or recertification as a system provider must include the following information:
 - 1) The legal name of the provider;
 - 2) The type of business organization of the provider;
 - 3) The mailing address, physical address, email address, and website address of the provider;
 - 4) The name and phone number of a contact person for the provider;

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- 5) If the applicant is a business entity, proof that the applicant is in good standing with the Illinois Secretary of State, Business Services Department;
 - 6) An attestation that the technology used by the applicant is in compliance with the provisions of this Part and Article VI-A of the Act relating to the performance of electronic notarial acts, with a copy of all manuals and information guides made available to Illinois electronic notaries;
 - 7) A certification that the vendor shall comply with the Illinois Notary Public Act and this Part regarding retention and storage and the disposition of documents, the electronic journal, and audio-video recordings if the provider no longer makes its system available to electronic notaries public for any reason;
 - 8) Copies of publicly available policy and procedure manuals and training materials that are used for training or usage in Illinois;
 - 9) Proof of liability insurance. The provider must maintain general commercial liability or product liability insurance with minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. The Secretary will accept other commercially acceptable insurance arrangements, in the same minimum amounts, if the Secretary determines that they provide an equivalent level of coverage; and
 - 10) A declaration that the system complies with the laws of the State of Illinois governing electronic notarial acts.
- d) An electronic notarization system provider may assert a claim that the information provided to the Secretary of State under subsection (b)(7) by an entity applying for certification with the Secretary of State is the provider's confidential, proprietary information and a trade secret of the system provider and is not a public record nor subject to subsection 7(g) of the Freedom of Information Act [5 ILCS 140].
- e) The Secretary of State will certify a system if it meets all of the following requirements:

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- 1) Provides secure access to the system by two-factor verification or another secure means that identifies the electronic notary public accessing the system;
- 2) Takes all reasonable steps to ensure that an electronic notary public using its system is duly commissioned by the Secretary of State and that the commission is in active status;
- 3) Provides for uninterrupted, continuous, and simultaneous audio-video communication between an electronic notary public and a principal;
- 4) Provides audio-video communication with a video resolution and audio quality that ensures that:
 - A) An electronic notary public and a principal can see, hear, and communicate with each other in real time; and
 - B) An electronic notary public can match the appearance of a principal with the credential presented by the principal;
- 5) Provides a secure communication link for audio-video communication that ensures that only the parties to an electronic notarial act and those persons authorized by each party to the electronic notarial act are part of the audio-video communication;
- 6) For systems providing an electronic journal of electronic notarial acts, ensures it complies with the provisions of this Subpart J and 5 ILCS 312/3-107 governing the requirement that an electronic notary public keep an electronic journal for each electronic notarial act;
- 7) Provides for the recording of an electronic notarial act performed by audio-video communication that complies with 5 ILCS 312/6A-104 and that is of sufficient quality to ensure verification of the recorded electronic notarial act;
- 8) Enables an electronic notary public to be satisfied that an electronic document presented for the performance of an electronic notarial act is the same electronic document on which the electronic notarial act was performed;

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- 9) Enables an electronic notary public to affix the wording of a notarial certificate required by 5 ILCS 312/6A-105, as applicable, and the electronic official notary seal of the electronic notary public required by 5 ILCS 312/3-101;
- 10) Enables a person viewing an electronic document on which an electronic notarial act was performed to view the electronic signature and electronic seal of the electronic notary public who performed the electronic notarial act;
- 11) Provides a method for determining whether an electronic document on which an electronic notarial act was performed has been altered after the electronic seal of the electronic notary public who performed the electronic notarial act has been affixed to the electronic document and the electronic notarial act was completed;
- 12) Prevents unauthorized access to:
 - A) An audio-video communication between an electronic notary public and a principal;
 - B) The recording of an electronic notarial act required by 5 ILCS 312/6A-104 for an electronic notarial act performed using audio-video communication;
 - C) Any personally identifiable information used in a credential analysis, identity proofing, or any other part of an audio-video communication, including without limitation:
 - i) A method of credential analysis and the output of that analysis;
 - ii) Any credential presented to an electronic notary public;
 - iii) The questions and answers used to conduct a dynamic knowledge-based authentication assessment; and

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- iv) The principal's birthdate, Social Security number, and other personally identifiable information;
 - D) The electronic document on which an electronic notarial act was performed; and
- 13) Provides a method of generating a paper copy of the electronic journal or journal entry of an electronic notary public and an electronic document on which an electronic notarial act was performed, including, without limitation, the electronic notarial certificate for the electronic document, the electronic signature and electronic seal of the electronic notary public who performed the electronic notarial act and any other document associated with the electronic document.
- 14) Submits the following plans:
 - A) A cybersecurity plan outlining security, audit, and other procedures to ensure that the electronic notarization system is secure from cyberattacks, intrusion, and compromise of the user data:
 - B) A business continuity plan in the case of business interruptions that last longer than two weeks; and
 - C) A business termination and succession plan in the case of the termination of business by the electronic notarization system provider.
- f) The Secretary will notify the applicant to be certified or recertified as a system provider in writing whether the application has been approved or denied. Before denying an application due to minor typographical or clerical errors, the Secretary will advise the applicant of the error and give the applicant 10 business days to correct the error.
- g) If an original or amended application to be certified or recertified as a system provider is denied, the applicant may not reapply until 12 months after the date of the denial or the date of the final order of the Secretary upholding the denial if the decision is reviewed in a formal administrative hearing. Before denying an application based on errors, the Secretary of State shall advise the applicant of the error and give the applicant 30 business days to correct the error.

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- h) In deciding whether to grant or deny an application, the Secretary of State will take into consideration the applicant's past performance in Illinois and other jurisdictions, whether the applicant's license or certification has ever been suspended, revoked, denied, canceled, or withdrawn, and whether another state has denied the applicant's application to operate as a provider in that state.
- i) An applicant that has been certified under this Section may at any time submit an amended application seeking certification to provide systems in addition to the systems previously certified for use by the applicant.
- j) If there is any change after a provider's certification that affects the ability of an electronic notary public to comply with this Part when performing an electronic notarial act, the provider must immediately notify the Secretary of State of the change. Upon receiving notice of the change, the Secretary of State will determine whether the provider continues to comply with this Part. If the Secretary of State determines that the provider no longer complies with this Part, a provider shall not allow the use of the system to perform an electronic notarial act in this State.
- k) **Services That Must Be Provided.** After certification or recertification by the Secretary, providers shall provide the following services and meet the following requirements:
 - 1) The provider shall only allow the use of systems that have been authorized in Illinois under this Section;
 - 2) The provider shall provide a toll-free customer service/question/complaint hotline, online chat feature, or a dedicated email address that is answered, at a minimum, between 9:00 am and 5:00 pm, Central Time, Monday through Friday;
 - 3) The provider must provide a course of training and written instructions for electronic notaries on operation, maintenance, and safeguards against improper operations for use of the system and, if providing electronic journal capability, instruct the electronic notary on maintaining the required journal of notarial acts performed on the system (see Subpart J). The provider must give the Secretary of State copies of all materials used in the course of this training and available to Illinois electronic notaries;

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- 4) Upon an inquiry from the Secretary of State, providers must verify to the Secretary of State within seven⁷ days whether an Illinois electronic notary has been enrolled in the system and provide the Secretary, upon request, with additional reports including but not limited to records of usage in Illinois;
- 5) The provider must notify the Secretary of State in writing within 10 business days if the provider or the manufacturer becomes unable to provide systems in Illinois or if the provider has been suspended or decertified in any other jurisdiction;
- 6) The Secretary of State may designate the form, format, and method of delivery (e.g., facsimile, electronic transfer, etc.), for any reports, information, or data required to be filed with the Secretary under this Section, including but not limited to, noncompliance report forms, tampering, or certifications;
- 7) Upon an allegation that the system provider failed to comply with a material provision of this Part, the Director of Index will notify the system provider, in writing, of the allegations. Within 30 days after receiving the written notice from the Director, the provider must respond to the allegations in writing, and provide an explanation of any corrective action taken. If the provider fails to correct any noncompliance found, the Secretary will deny, suspend, or revoke the certification. This penalty will be in addition to any private causes of action that may exist for an electronic notary that has been aggrieved by the noncompliance of the provider;
- 8) Upon the request of the Secretary of State, the provider shall, at no cost to the Secretary of State, provide the Secretary with an online demonstration and allow the Secretary of State to ask any relevant questions. The system provider shall also provide to the Secretary a publicly available, detailed description of the system, including complete instructions for operation provided to notaries public.
- 9) Providers must maintain records related to enrolled electronic notaries for 7 years after the electronic notary disenrolls from the system.

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10) Providers shall, upon request of the Secretary of State, submit information regarding the operation of their platform that includes, but is not limited to, the number of current or previous Illinois electronic notaries registered to the platform and the number and type of electronic notarizations performed on the platform by Illinois notaries.

- l) Criteria for Certification of Systems. Only systems that have been certified for use in Illinois under this Section may be used by Illinois electronic notaries. Certification of a system will be based on whether the system complies with any nationally recognized standards and this Part.
- m) Decertification or Suspension of Providers. The Secretary of State may suspend or decertify a provider from providing electronic notarization systems in Illinois. The Secretary shall provide a written warning, and ~~1530~~ days to come into compliance, to a provider regarding any violation of this Section that may lead to suspension or decertification. The provider shall respond in writing to the Secretary describing the course of corrective action. If the Director of the Index Department determines that the course of corrective action does not bring the system provider into full compliance with the Act and this Part, or there are recurring instances of the violations, the Secretary may decertify the provider from providing systems in Illinois or suspend the provider from allowing any new enrollments for 3 months. The following are considered actions warranting decertification or suspension:
 - 1) Failure to provide information, as requested, to the Secretary of State in a timely manner;
 - 2) Failure to maintain liability insurance as required;
 - 3) Failure to comply with the duties and obligations contained in this Part;
 - 4) Failure to provide Illinois electronic notaries with correct information regarding the requirements of this Section;
 - 5) Failure to report enrollments and disenrollments to the Secretary within ~~seven~~⁷ days after the enrollment or disenrollment;
 - 6) Failure to inform the Secretary of suspension or decertification from service in another jurisdiction within 30 days;

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- 7) Giving any instruction, codes, procedures, technological information, or advice to a notary that results in or could result in the system being circumvented by a user or third party;
 - 8) Allowing enrollment by a person that is not commissioned as an electronic notary in Illinois;
 - 9) Failure to meet any of the requirements of the Act or this Subpart; and
 - 10) Solicitation of an Illinois electronic notary for any service or product other than the system that has been certified.
 - 11) [Has ceased operation as an electronic notarization system provider in the State of Illinois.](#)
- n) Notification of Decertification or Decision Not to Recertify. When the Secretary decides not to recertify or to decertify a provider or a provider ceases to operate, the Secretary will notify all affected electronic notaries public in writing. The notifications shall be sent not less than 30 days after the decision or, if the provider requests a formal administrative hearing within that 30-day period to review the decision, notification will not be sent until the entry of a final order of the hearing officer upholding the decision.
- o) Applicants Who Are Denied. Applicants whose applications for certification or recertification have been denied and providers that have been suspended or decertified may request an administrative hearing under Subpart K. Decisions not to recertify or to suspend or decertify will not be carried out until at least 30 days after the notice of the decision has been sent to the applicant or provider or, if the applicant or provider requests a hearing within that 30-day period, until the entry of a final order of the hearing officer upholding that decision. The hearings held under this Part shall be conducted in accordance with all the rights, privileges, and procedures set forth in Subpart K. A request for a hearing to contest a decision to deny certification or recertification or to decertify must be made in writing and must be sent to the Office of the Secretary of State, Department of Administrative Hearings, Michael J. Howlett Building, Room 207, Springfield, Illinois 62756, (217) 524-0124.

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- p) Solicitation by Provider. Any solicitation sent from a provider to a potential user must conspicuously and in bold font include the following statements: "(name of provider) is a privately owned entity and is not owned, operated, or endorsed by the Illinois Secretary of State or any other Illinois government agency" and "(name of provider) is not the sole provider authorized by the Secretary of State". The solicitation or any correspondence from the provider may not be attached to or have the appearance of any official correspondence sent by the Illinois Secretary of State, may not state or otherwise indicate that the provider is the sole or only provider in Illinois. A system provider may not use any personal information (including the name, address, telephone number, or email address) provided by a notary to solicit the notary for any service or product other than the certified electronic notarization system.
- q) Publication of Provider Lists. A list of certified electronic notarization system providers, in no particular order, will be published on the Illinois Secretary of State's website (<https://www.ilsos.gov/departments/index/notary/home.html>) upon certification.

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

SUBPART J: JOURNAL

Section 176.900 Journal Requirements

- a) Every notary public, whether or not also an electronic notary public, must record each notarial act in a journal at the time of notarization to comply with 5 ILCS 312/3-107 and this Subpart J.
- b) Each journal of a notary public, whether maintained on a tangible medium or in an electronic format, must contain all of the following information in any order:
- 1) The name of the notary public as it appears on the commission;
 - 2) The notary public's commission number;
 - 3) The notary public's commission expiration date;
 - 4) The notary public's office address of record with the Secretary of State;

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- 5) A statement that, upon the death or adjudication of incompetency of the notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal must deliver or mail it to the Secretary of State;
 - 6) The meaning of any abbreviated word or symbol used in recording a notarial act in the notarial journal; and
 - 7) The signature of the notary public.
- c) If a notary public's name, commission expiration date, or address changes before the notary public stops using the notarial journal, the notary public shall add the new information after the old information and the date on which the information changed.
- d) An electronic journal kept by a notary public or an electronic notary public under 5 ILCS 312/3-107 must comply with the requirements of subsections (a) and (b) and must also:
- 1) Prohibit the electronic notary public or any other person from deleting a record included in the electronic journal or altering the content or sequence of such a record after the record is entered into the electronic journal except to redact personally identifiable information as required by Section 176.910(d);
 - 2) Be securely backed up by the electronic notary public and the electronic notarization system provider whose electronic notarization system was used by the electronic notary, if applicable; and
 - 3) Omit all personally identifiable information, as defined in Section 176.10.
- e) A notary public shall allow for the inspection of the journal or electronic journal as required by Section 176.950.
- f) Notwithstanding any other subsection of this Part to the contrary, a notary employed by an attorney or law firm is not required to keep a journal of notarizations performed during the notary's employment if the attorney or law firm maintains a copy of the documents notarized. No attorney or law firm shall be required to violate attorney-client privilege by allowing or authorizing

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inspection of any notarizations that are recorded in a notary's journal. Journals of notarizations performed solely within the course of a notary's employment with an attorney or law firm are the property of the employing attorney or firm.

- g) No notary public nor electronic notary public is required to keep or maintain a journal or otherwise record a notarial act or electronic notarial act in a journal if that act is performed by or on behalf of a candidate for public office and includes one or more of the following documents:
- 1) nominating petitions;
 - 2) petitions of candidacy;
 - 3) petitions of nominations;
 - 4) nominating papers; or
 - 5) nomination papers. (See 5 ILCS 312/3-107.)
- h) The exemption under subsection (g) applies regardless of whether the notarial act or electronic notarial act is performed on the documents described in subsection (g) before, on, or after the effective date of the amendatory Act of the 103rd General Assembly, and the failure of a notary public or an electronic notary public to keep a journal of or to otherwise record such an act does not affect the validity of the notarial act on that document and is not a violation of the Act. [5 ILCS 312/3-107]

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

Section 176.980 Revocation, Suspension, and Reprimand

For purposes of this Section, "notary public" includes an electronic notary public and remote notary public.

- a) Revocation. A notary public's commission may be revoked for any of the foregoing acts or omissions:
- 1) The notary public demonstrates the notary public lacks the honesty, integrity, competence, or reliability to act as a notary public; or

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- 2) The notary public fails to maintain a residence or place of employment in Illinois.
- b) Suspension. A notary public's commission may be suspended for any actions contrary to the Act, other laws of the State of Illinois, and this Part.
- c) Other Remedial Actions. The Secretary of State may deliver a written official warning to cease misconduct, misfeasance, or malfeasance to any notary public whose actions are determined to violate this Part, the Act, or other laws of the State of Illinois.
- d) Before suspending or revoking a notary public's commission, the Secretary of State must inform the notary public of the basis for the suspension or revocation and that the suspension or revocation takes effect on a particular date unless a request for an administrative hearing is filed with the Secretary of State under 5 ILCS 312/7-108(j) and Section 176.990 before that date.
- e) Resignation or expiration of a notary public's commission does not terminate or preclude an inquiry into the notary's conduct by the Secretary of State. Whether the finding would have been grounds for revocation will be made a matter of public record.
- f) A notary public or an electronic notary public that notarizes one of the documents listed in this subsection (f) by or on behalf of a candidate for public office and does not enter the notarial act or electronic notarial act into a journal does not violate the Act pursuant to 5 ILCS 312/3-107(f) and shall not be subject to discipline provided in this Section:
 - 1) nominating petitions;
 - 2) petitions of candidacy;
 - 3) petitions for nominations;
 - 4) nominating papers; or
 - 5) nomination papers.

(Source: Amended at 49 Ill. Reg. 584, effective January 1, 2025)

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Section 176.ILLUSTRATION C Exemption from Notary Public Study Course Requirements

Name: _____

Street Address: _____

City, State, Zip code: _____

I am: (check one)

_____ An Illinois licensed attorney in good standing with the Illinois Attorney Registration and Disciplinary Commission. My ARDC registration number is _____.

_____ Currently employed by an Illinois licensed attorney (e.g., law firm located in Illinois, Illinois State's Attorney's Office, Illinois Public Defender's Office, Illinois Attorney General).

Name and address of firm or agency:_____

_____Name of Illinois licensed attorney who is my direct supervisor:

_____ Currently an Illinois court or federal court judge or employed by an Illinois or federal court.

Name and address of the court:_____

I have read and understand the version of the Act that is in effect at the time of this application and certify that the above information is true and accurate.

Signature

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Date

(Source: Added at 48 Ill. Reg. 584, effective January 1, 2025)