

## CHAPTER 358

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#### **358.01 PRIVATE SEALS ABOLISHED.**

Private seals are abolished, and all written instruments formerly required by law to be sealed shall be equally effective for all purposes without a seal; but nothing herein shall apply to the use of corporate seals.

**History:** (6933) *RL s 2652*

**358.02** [Repealed, 1983 c 119 s 4]

#### **358.028 LEGISLATORS, OFFICIAL STAMPS.**

Every member of the legislature, while in office and residing in the district from which elected, may have an official notarial stamp, in the form provided in section 358.03, with which to authenticate official acts provided for in section 358.15.

**History:** 1955 c 72 s 1; 1986 c 444; 2010 c 380 s 2

**358.03 FORM OF OFFICIAL SEALS.**

Upon every seal of a court or officer authorized or required to have a seal there shall be engraved the same device that is engraved on the seal of the state, and the name of the court or office in which it is to be used. The seal of the court, if affixed electronically, must bear the likeness of the seal of the state, and the name of the court in which it is to be used.

**History:** (6935) *RL s 2654; 1947 c 199 s 1; 2014 c 204 s 2*

**358.04 TEMPORARY SEAL, WHEN USED.**

When any court of record is unprovided with a seal, the judge thereof may authorize the use of any temporary seal, or of any device by way of seal, until one is provided.

**History:** (6936) *RL s 2655*

**358.05 OATH OF OFFICE.**

The oath of office to be taken by members and officers of either branch of the legislature shall be that prescribed by the Constitution of the state of Minnesota, article IV, section 8. Every person elected or appointed to any other public office, including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in the Constitution of the state of Minnesota, article V, section 6.

**History:** (6963) *RL s 2677; 1976 c 2 s 172*

**358.06 TRUSTEES, REFEREES.**

Unless otherwise provided by law, every executor, administrator, guardian, trustee, referee, arbitrator, viewer, assessor, appraiser, and other person appointed by or made responsible to the court in any action or proceeding, before entering upon duties as such, shall take and subscribe the following oath:

"I, A.B., do swear that I will faithfully and justly perform all the duties of the office and trust which I now assume as (insert brief description of office), to the best of my ability. So help me God."

**History:** (6964) *RL s 2678; 1986 c 444*

**358.07 FORMS OF OATH IN VARIOUS CASES.**

An oath substantially in the following forms shall be administered to the respective officers and persons hereinafter named:

(1) To grand jurors:

"You each do swear that you will diligently inquire, and true presentment make, of all public offenses committed within this county of which you have legal proof; the counsel of the state and of yourself and fellows you will keep secret; you will present no person through malice or ill-will, nor leave any unrepresented through fear or favor, or the receipt or hope of reward, but will present things truly to the best of your understanding and according to law. So help you God."

(2) To petit jurors in civil actions:

"You each do swear that you will impartially try the issues in this case, and a true verdict give, according to law and the evidence given you in court; your own counsel and that of your fellows you will duly keep;

you will say nothing to any person concerning the case, nor suffer any one to speak to you about it, and will keep your verdict secret until you deliver it in court. So help you God."

(3) To petit juries in criminal cases:

"You each do swear that, without respect of persons or favor of any person, you will well and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to law and the evidence given you in court. So help you God."

(4) To officers attending grand juries:

"You do swear that, as officer of the grand jury, you will keep their counsel and that of the state, and not disclose anything relative to their proceedings. So help you God."

(5) To same in charge of petit juries:

"You do swear that you will keep this jury together, and, so far as may be, secluded, so long as they shall remain in your charge; will suffer no one to communicate with or overhear them while deliberating upon their verdict; and will not by word or sign disclose, except to the court alone, anything that may come to your knowledge concerning their action in this case until they are duly discharged."

(6) Same, in charge during recess:

"You do swear that you will keep together this jury until they return into court, and that in the meantime you will suffer no one to speak to them, nor speak to them yourself, concerning the cause on trial, or any matter relating thereto."

(7) To witnesses: "You do swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God."

(8) To interpreters:

"You do swear that you will truly and impartially interpret to this witness the oath about to be administered to the witness, and the testimony the witness shall give relative to the cause now under consideration. So help you God."

(9) To attorneys:

"You do swear that you will support the Constitution of the United States and that of the state of Minnesota, and will conduct yourself as an attorney and counselor at law in an upright and courteous manner, to the best of your learning and ability, with all good fidelity as well to the court as to the client, and that you will use no falsehood or deceit, nor delay any person's cause for lucre or malice. So help you God."

(10) To affiants:

"You do swear that the statements of this affidavit, by you subscribed, are true. So help you God."

**History:** (6965) *RL s 2679; 1986 c 444*

### **358.08 AFFIRMATION IN LIEU OF OATH.**

If any person of whom an oath is required shall claim religious scruples against taking the same, the word "swear" and the words "so help you God" may be omitted from the foregoing forms, and the word

"affirm" and the words "and this you do under the penalties of perjury" shall be substituted therefor, respectively, and such person shall be considered, for all purposes, as having been duly sworn.

**History:** (6966) *RL s 2680; 1986 c 444*

### **358.09 BY WHOM AND HOW ADMINISTERED.**

Any officer authorized by this chapter to take and certify acknowledgments may administer an oath, and, if the same be in writing, may certify the same under the officer's signature, and an official notarial stamp, in the following form: "Subscribed and sworn to before me this ..... day of ....., ....." The mode of administering an oath commonly practiced in the place where it is taken shall be followed, including, in this state, the ceremony of uplifting the hand.

**History:** (6967) *RL s 2681; 1986 c 444; 2010 c 380 s 3*

### **358.10 OFFICIALS MAY ADMINISTER, WHEN.**

(a) All persons holding office under any law of this state, or under the charter or ordinances of any municipal corporation thereof, including judges and clerks of election, and all committee members, commissioners, trustees, referees, appraisers, assessors, and all others authorized or required by law to act or report upon any matter of fact, have the power to administer oaths they deem necessary to the proper discharge of their respective duties.

(b) Any employee of the secretary of state designated by the secretary of state has the power to administer oaths to an individual who wishes to file with the secretary of state an affidavit of candidacy, nominating petition, declaration of intent to be a write-in candidate, or any other document relating to the conduct of elections.

**History:** (6968) *RL s 2682; 1986 c 444; 1Sp2001 c 10 art 18 s 41*

### **358.11 OATHS, WHERE FILED.**

Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

- (1) if that of an officer of the state, whether elective or appointive, with the secretary of state;
- (2) if of a county officer, or an officer chosen within or for any county, with the county auditor;
- (3) if of a city officer, with the clerk or recorder of the municipality;
- (4) if of a town officer, with the town clerk;
- (5) if of a school district officer, with the clerk of the district;
- (6) if of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the court administrator of such court;
- (7) if that of a person appointed by any state, county, or other officer for a special service in connection with official duties, with such officer.

If the person taking such oath be also required to give bond, the oath shall be attached to or endorsed upon such bond and filed therewith, in lieu of other filing.

**History:** (6969) *RL s 2683; 1973 c 123 art 5 s 7; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

**358.115 UNSWORN FOREIGN DECLARATIONS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Boundaries of the United States" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(c) "Law" includes the federal or a state constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order, and an administrative rule, regulation, or order.

(d) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(e) "Sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound, or process.

(f) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(g) "Sworn declaration" means a declaration in a signed record given under oath. The term includes a sworn statement, verification, certificate, and affidavit.

(h) "Unsworn declaration" means a declaration in a signed record that is not given under oath, but is given under penalty of perjury.

Subd. 2. **Applicability.** This section applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States. This section does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or federally recognized Indian tribe.

Subd. 3. **Validity of unsworn declaration.** (a) Except as otherwise provided in paragraph (b), if a state law requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this section has the same effect as a sworn declaration.

(b) This section does not apply to:

(1) a deposition;

(2) an oath of office;

(3) an oath required to be given before a specified official other than a notary public;

(4) a document intended for recording in the real estate records in the office of the county recorder or registrar of titles;

(5) an oath under section 524.2-504; or

(6) a power of attorney.

Subd. 4. **Required medium.** If a state law requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

Subd. 5. **Form of unsworn declaration.** An unsworn declaration under this section must be in substantially the following form:

I declare under penalty of perjury under the law of Minnesota that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the ..... day of ....., ....., at ....., ....., .....

(date) (month) (year) (city or other location, and state)

.....(printed name)

.....(signature)

Subd. 6. **Relation to electronic signatures in Global and National Commerce Act.** This section modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

Subd. 7. **Citation.** This section may be cited as the "Uniform Unsworn Foreign Declarations Act."

**History:** 2010 c 295 s 1

### 358.116 COURT DOCUMENTS.

Unless specifically required by court rule, a pleading, motion, affidavit, or other document filed with a court of the Minnesota judicial branch, or presented to a judge or judicial officer in support of a request for a court order, warrant, or other relief, is not required to be notarized. Signing a document filed with the court or presented to a judge or judicial officer constitutes "verification upon oath or affirmation" as defined in section 358.52, without administration of an oath under section 358.07, provided that the signature, as defined by court rules, is affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed shall be noted on the document. A person who signs knowing that the document is false in any material respect is guilty of perjury under section 609.48, even if the date, county, and state of signing are omitted from the document.

**History:** 2014 c 204 s 3; 2017 c 95 art 2 s 8; 2018 c 176 art 2 s 3

358.12 [Repealed, 1973 c 116 s 10]

358.13 [Repealed, 1973 c 116 s 10]

### 358.14 MARRIED PERSONS.

No separate examination of each spouse shall be required, but if spouses join in and acknowledge the execution of any instrument, they shall be described in the certificate of acknowledgment in a manner that

indicates they are married to each other; and, if they acknowledge it before different officers, or before the same officer at different times, each shall be described in the certificate as the spouse of the other.

**History:** (6972) *RL s 2686; 1987 c 49 s 10; 2014 c 266 s 2*

### **358.15 EX OFFICIO NOTARY PUBLIC.**

(a) The following officers have the powers of a notary public within the state:

(1) every member of the legislature, while still a resident in the district from which elected; but no fee or compensation may be received for exercising these powers. The form of the official signature in these cases is: "A.B., Representative (or Senator), ..... District, Minnesota, ex officio notary public. My term expires January 1, ....."

(2) the clerks or recorders of towns, and cities. The form of the official signature in these cases is: "A.B. (official title), ..... County, Minnesota, ex officio notary public. My term expires ..... (or where applicable) my term is indeterminate.";

(3) court commissioners, county recorders, and county auditors, and their several deputies, and county commissioners, all within their respective counties. The form of the official signature in these cases: "A.B. (official title), ..... County, Minnesota, ex officio notary public. My term expires ..... (or where applicable) my term is indeterminate."; and

(4) peace officers licensed under section 626.845 for the purpose of administering oaths upon information submitted to establish probable cause to any judge or judicial officer under the Rules of Criminal Procedure. The form of the official signature in these cases is "A.B., Peace Officer License Number ....., ..... County, Minnesota. My license expires June 30, ....."

(b) An officer using the powers of a notary public within the state pursuant to clauses (1) to (3) shall obtain an official stamp as specified under section 359.03, subdivisions 1, 3, and 4, with which to authenticate official acts.

(c) The county auditor and county recorder, and their deputies, and the clerk or recorder of a town or city with ex officio powers under this section may authenticate official acts related to the statutory duties of their respective offices without using the official stamp for 90 days after initially assuming the office, or until the officer acquires an official stamp, whichever is earlier.

**History:** (6973) *RL s 2687; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1983 c 359 s 45; 1985 c 268 s 1; 1995 c 37 s 1; 1998 c 254 art 1 s 107; 2010 c 380 s 4*

**358.16** MS 1949 [Obsolete]

**358.17** MS 1949 [Obsolete]

**358.18** MS 1949 [Obsolete]

**358.19** MS 1949 [Obsolete]

**358.20** MS 1949 [Obsolete]

**358.21** MS 1949 [Obsolete]

**358.22** [Repealed, 1973 c 116 s 10]

**358.23** [Repealed, 1973 c 116 s 10]

**358.24** [Repealed, 1973 c 116 s 10]

**358.25 POWER GIVEN FOR TAKING ACKNOWLEDGMENTS FOR PROTESTING BILLS OF EXCHANGE.**

Any person authorized to take acknowledgments or administer oaths, who is at the same time an officer, director or stockholder of a corporation, is hereby authorized to take acknowledgments of instruments wherein such corporation is interested, and to administer oaths to any officer, director, or stockholder of such corporation as such, and to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable or nonnegotiable instruments which may be owned or held for collection by such corporation, as fully and effectually as if the person were not an officer, director, or stockholder of such corporation.

**History:** (6980) 1907 c 406 s 1; 1915 c 20 s 1; 1986 c 444

**358.26** [Repealed, 1973 c 116 s 10]

**358.27** [Repealed, 1973 c 116 s 10]

**358.271** [Obsolete]

**358.28** MS 1949 [Obsolete]

**358.29** MS 1949 [Obsolete]

**358.30** MS 1949 [Obsolete]

**358.31** MS 1949 [Obsolete]

**358.32** [Repealed, 1985 c 268 s 12]

**358.33** [Repealed, 1985 c 268 s 12]

**358.34** [Repealed, 1985 c 268 s 12]

**358.35** [Repealed, 1985 c 268 s 12]

**358.36** [Repealed, 1985 c 268 s 12]

**358.37** [Repealed, 1985 c 268 s 12]

**358.38** [Repealed, 1985 c 268 s 12]

**358.39** [Repealed, 1985 c 268 s 12]

**358.40** [Repealed, 1985 c 268 s 12]

**NOTARIES**

**358.41** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.42** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.43** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.44** MS 2016 [Repealed, 2018 c 176 art 1 s 29]



**358.45** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.46** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.47** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.48** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.49** MS 2016 [Repealed, 2018 c 176 art 1 s 29]

**358.50 EFFECT OF ACKNOWLEDGMENT.**

An acknowledgment made in a representative capacity as defined in section 358.52, subdivision 5, and certified substantially in the form prescribed in this chapter is prima facie evidence that the instrument or electronic record was executed and delivered with proper authority and as the act of the person or entity represented and identified in the instrument or electronic record.

**History:** 1987 c 26 s 1; 2006 c 260 art 7 s 4; 2007 c 148 art 2 s 65; 2011 c 66 s 2; 2018 c 176 art 2 s 4

**REVISED UNIFORM LAW ON NOTARIAL ACTS**

**358.51 SHORT TITLE.**

Sections 358.51 to 358.76 may be cited as the "Revised Uniform Law on Notarial Acts."

**History:** 2018 c 176 art 1 s 1

**358.52 DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 358.51 to 358.76, the terms defined in subdivisions 2 to 16 have the meanings given them.

Subd. 2. **Acknowledgment.** "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

Subd. 3. **Electronic.** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Subd. 4. **Electronic signature.** "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

Subd. 5. **In a representative capacity.** "In a representative capacity" means acting as:

(1) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(2) a public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

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

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

Subd. 6. **Notarial act.** "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

Subd. 7. **Notarial officer.** "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

Subd. 8. **Notary public.** "Notary public" means an individual commissioned to perform a notarial act.

Subd. 9. **Official stamp.** "Official stamp" means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.

Subd. 10. **Person.** "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Subd. 11. **Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Subd. 12. **Sign.** "Sign" means, with present intent to authenticate or adopt a record:

- (1) to execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic symbol, sound, or process.

Subd. 13. **Signature.** "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

Subd. 14. **Stamping device.** "Stamping device" means:

- (1) a physical device capable of affixing to a tangible record an official stamp; or
- (2) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

Subd. 15. **State.** "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Subd. 16. **Verification on oath or affirmation.** "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

**History:** 2018 c 176 art 1 s 2

### 358.53 APPLICABILITY.

Sections 358.51 to 358.76 apply to a notarial act performed on or after January 1, 2019.

**History:** 2018 c 176 art 1 s 3

**358.54 AUTHORITY TO PERFORM NOTARIAL ACT.**

Subdivision 1. **Source.** A notarial officer may perform a notarial act authorized by sections 358.51 to 358.76, 359.04, and other law.

Subd. 2. **Limitation.** A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subdivision is voidable.

**History:** 2018 c 176 art 1 s 4

**358.55 REQUIREMENTS FOR CERTAIN NOTARIAL ACTS.**

Subdivision 1. **Acknowledgments.** A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual as set forth in section 358.57, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

Subd. 2. **Verifications.** A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

Subd. 3. **Signatures.** A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

Subd. 4. **Copies.** A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

Subd. 5. **Protests.** A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 336.3-505, paragraph (b).

**History:** 2018 c 176 art 1 s 5

**358.56 PERSONAL APPEARANCE REQUIRED.**

Except as otherwise provided in section 358.645, if a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

**History:** 2018 c 176 art 1 s 6

**358.57 IDENTIFICATION OF INDIVIDUAL.**

Subdivision 1. **Personal knowledge.** A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

Subd. 2. **Identification.** A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(i) a passport, driver's license, or government-issued nondriver identification card that is currently valid; or

(ii) another form of government identification issued to an individual that is currently valid, contains the individual's signature or a photograph of the individual, and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification card that is current or expired not more than three years before performance of the notarial act.

Subd. 3. **Additional information or credentials.** A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

**History:** 2018 c 176 art 1 s 7

### **358.58 AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT.**

Subdivision 1. **Specific grounds.** A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

Subd. 2. **General limitation.** A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than sections 358.51 to 358.76.

**History:** 2018 c 176 art 1 s 8

### **358.59 SIGNATURE IF INDIVIDUAL UNABLE TO SIGN.**

If an individual is physically unable to sign a record, the individual's signature may be obtained in the manner provided in section 645.44, subdivision 14.

**History:** 2018 c 176 art 1 s 9

### **358.60 NOTARIAL ACT IN THIS STATE.**

Subdivision 1. **Authorized persons.** A notarial act may be performed in this state by:

(1) a notary public of this state;

(2) a judge, clerk, or deputy clerk of a court of this state; or

(3) any other individual authorized to perform the specific act by the law of this state.

Subd. 2. **Significance of signature and title.** The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

Subd. 3. **Authority of officer established.** The signature and title of a notarial officer described in subdivision 1, clause (1) or (2), conclusively establish the authority of the officer to perform the notarial act.

**History:** 2018 c 176 art 1 s 10

### **358.61 NOTARIAL ACT IN ANOTHER STATE.**

Subdivision 1. **Effect.** A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

- (1) a notary public of that state;
- (2) a judge, clerk, or deputy clerk of a court of that state; or
- (3) any other individual authorized by the law of that state to perform the notarial act.

Subd. 2. **Significance of signature and title.** The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

Subd. 3. **Authority of officer established.** The signature and title of a notarial officer described in subdivision 1, clause (1) or (2), conclusively establish the authority of the officer to perform the notarial act.

**History:** 2018 c 176 art 1 s 11

### **358.62 NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED TRIBE.**

Subdivision 1. **Effect.** A notarial act performed under the authority and in the jurisdiction of a federally recognized tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of that tribe or nation is performed by:

- (1) a notary public of that tribe;
- (2) a judge, clerk, or deputy clerk of a court of that tribe; or
- (3) any other individual authorized by the law of that tribe to perform the notarial act.

Subd. 2. **Significance of signature and title.** The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

Subd. 3. **Authority of officer established.** The signature and title of a notarial officer described in subdivision 1, clause (1) or (2), conclusively establish the authority of the officer to perform the notarial act.

**History:** 2018 c 176 art 1 s 12

### **358.63 NOTARIAL ACT UNDER FEDERAL AUTHORITY.**

Subdivision 1. **Effect.** A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

(1) a judge, clerk, or deputy clerk of a court;

(2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(3) an individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or

(4) any other individual authorized by federal law to perform the notarial act.

Subd. 2. **Significance of signature and title.** The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

Subd. 3. **Authority of officer established.** The signature and title of an officer described in subdivision 1, clause (1), (2), or (3), conclusively establish the authority of the officer to perform the notarial act.

**History:** 2018 c 176 art 1 s 13

### 358.64 FOREIGN NOTARIAL ACT.

Subdivision 1. **Definition.** In this section, "foreign state" means a government other than the United States, a state, or a federally recognized tribe.

Subd. 2. **Effect.** If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

Subd. 3. **Authority of officer established.** If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

Subd. 4. **Significance of signature and official stamp.** The signature and official stamp of an individual holding an office described in subdivision 3 are prima facie evidence that the signature is genuine and the individual holds the designated title.

Subd. 5. **Significance of apostille.** An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Subd. 6. **Significance of consular authentication.** A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

**History:** 2018 c 176 art 1 s 14

### 358.645 REMOTE ONLINE NOTARY PUBLIC.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Appear," "personally appear," or "in the presence of" means:

(1) being in the same physical location as another person and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(2) interacting with another individual by means of communication technology as defined in this section.

(c) "Communication technology" means an electronic device or process that allows a notary public physically located in this state and a remotely located individual to communicate with each other simultaneously by sight and sound and that, as necessary, makes reasonable accommodation for individuals with vision, hearing, or speech impairments.

(d) "Credential analysis" means an automated software- or hardware-based process or service through which a third person affirms the validity of a government-issued identification credential through review of public or proprietary data sources.

(e) "Electronic journal" means a secure electronic record of notarial acts that contains the items listed in and required by subdivision 4, paragraph (a), and performed by the remote online notary public.

(f) "Electronic record" means information that is created, generated, sent, communicated, received, or stored by electronic means.

(g) "Electronic seal" means information within a notarized electronic record that confirms the remote online notary public's name, jurisdiction, identifying number, and commission expiration date and generally corresponds to information in notary seals used on paper documents.

(h) "Identity proofing" means a process or service through which a third person affirms the identity of an individual through review of personal information from public or proprietary data sources, and that may include dynamic knowledge-based authentication or biometric verification.

(i) "Outside the United States" means outside the geographic boundaries of a state or commonwealth of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(j) "Principal" means an individual:

(1) whose electronic signature is notarized in a remote online notarization; or

(2) making an oath or affirmation or an acknowledgment other than in the capacity of a witness for the remote online notarization.

(k) "Remote online notarial certificate" is the form of an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation that is completed by a remote online notary public and:

(1) contains the online notary public's electronic signature, electronic seal, title, commission number, and commission expiration date;

(2) contains other required information concerning the date and place of the remote online notarization;

(3) otherwise conforms to the requirements for an acknowledgment, jurat, verification on oath or affirmation, or verification of witness or attestation under the laws of this state; and

(4) indicates that the person making the acknowledgment, oath, or affirmation appeared remotely online.

(l) "Remote online notarization" or "remote online notarial act" means a notarial act performed by means of communication technology as defined in this section.

(m) "Remote online notary public" means a notary public who has registered with the secretary of state to perform remote online notarizations.

(n) "Remote presentation" means transmission to the remote online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the remote online notary public to:

- (1) identify the individual seeking the remote online notary public's services; and
- (2) perform credential analysis.

(o) "Remotely located individual" means an individual who is not in the physical presence of the notary.

**Subd. 2. Qualifications; registration required.** (a) A remote online notary public:

(1) is a notary public for purposes of chapter 359 and is subject to and must be appointed and commissioned under that chapter;

(2) may perform notarial acts as provided by this chapter and chapter 359 in addition to performing remote online notarizations; and

(3) may perform remote online notarizations authorized under this section.

(b) A notary public commissioned in this state may apply for remote online notarization registration according to this section. Before a notary performs a remote online notarization, the notary must register with the secretary of state according to section 359.01, subdivision 5, and must certify that the notary intends to use communication technology that conforms to this section.

(c) Unless terminated under this section, the term of registration to perform remote online notarial acts begins on the registration starting date set by the secretary of state and continues as long as the notary public's current commission to perform notarial acts remains valid.

(d) Upon the applicant's fulfillment of the requirements for remote online notarization registration under this section, the secretary of state shall record the registration under the applicant's notary public commission number.

(e) The secretary of state may reject a registration application if the applicant fails to comply with paragraphs (a) to (d). The commissioner of commerce may revoke a registration if the applicant fails to comply with subdivisions 2 to 6.

**Subd. 3. Authority to perform remote online notarial acts.** (a) A remote online notary public may perform a remote online notarial act authorized under this section only while the remote online notary public is physically located in this state. A remote online notary public physically located in this state may perform a remote online notarial act using communication technology as defined in this section for a remotely located individual who is physically located:

- (1) in this state;
- (2) outside this state, but within the United States; or
- (3) outside the United States if:

(i) the remote online notary public has no actual knowledge of the remote online notarial act being prohibited in the jurisdiction in which the person is physically located; and



(ii) the person placing an electronic signature on the electronic document confirms to the remote online notary public that the requested remote online notarial act and the electronic document:

(A) are part of or pertain to a matter that is to be filed with or is currently before a court, governmental entity, or other entity in the United States;

(B) relate to property located in the United States; or

(C) relate to a transaction substantially connected to the United States.

(b) The validity of a remote online notarization performed by an online notary public of this state according to this chapter shall be governed by the laws of this state.

(c) A remote online notary public or the remote online notary public's employer may charge a fee not to exceed \$25 for the performance of a remote online notarial act, if the act occurs before January 1, 2023.

**Subd. 4. Electronic journal of remote online notarizations.** (a) A remote online notary public shall keep one or more secure electronic journals of notarial acts performed by the remote online notary public. An electronic journal must contain for each remote online notarization:

(1) the date and time of the notarization;

(2) the type of notarial act;

(3) the type, the title, or a description of the electronic document or proceeding;

(4) the printed name and address of each principal involved in the transaction or proceeding;

(5) evidence of identity of each principal involved in the transaction or proceeding in the form of:

(i) a statement that the person is personally known to the remote online notary public;

(ii) a notation of the type of identification document provided to the remote online notary public; or

(iii) the following:

(A) the printed name and address of each credible witness swearing to or affirming the person's identity; and

(B) for each credible witness not personally known to the remote online notary public, a description of the type of identification documents provided to the remote online notary public; and

(6) the fee, if any, charged for the notarization.

(b) The remote online notary public shall create an audio and video copy of the performance of the notarial act.

(c) The remote online notary public shall take reasonable steps to:

(1) ensure the integrity, security, and authenticity of remote online notarizations;

(2) maintain a backup for the electronic journal required by paragraph (a) and the recordings required by paragraph (b); and

(3) protect the records and backup record in this subdivision from unauthorized access or use.

(d) The electronic journal required by paragraph (a) and the recordings required by paragraph (b) shall be maintained for at least ten years after the date of the transaction or proceeding. The remote online notary public may, by written agreement, designate as a repository of the recording and the electronic journal:

(1) the employer of the remote online notary public if evidenced by a record signed by the remote online notary public and the employer in which the employer agrees to meet the applicable requirements of this paragraph and paragraph (c); or

(2) another repository meeting the applicable requirements of this paragraph and paragraph (c).

**Subd. 5. Identity proofing; minimum standards.** A remote online notarial act performed under this section shall comply with the following minimum standards:

(1) Identity proofing shall include knowledge-based authentication with these or greater security characteristics:

(i) The signer must be presented with five or more questions with a minimum of five possible answer choices per question.

(ii) Each question must be drawn from a third-party provider of public and proprietary data sources and be identifiable to the signer's social security number or other identification information, or the signer's identity and historical events records.

(iii) Responses to all questions must be made within a two-minute time constraint.

(iv) The signer must answer a minimum of 80 percent of the questions correctly.

(v) The signer may be offered an additional attempt in the event of a failed first attempt.

(vi) During the second attempt, the signer may not be presented with more than three questions from the prior attempt.

(2) Credential analysis must confirm that the credential is valid and matches the signer's claimed identity using one or more automated software or hardware processes that scan the credential, including its format features, data, bar codes, or other security elements.

**Subd. 6. Use of electronic journal and seal.** (a) A remote online notary public shall keep the remote online notary public's electronic journal and electronic seal secure and under the remote online notary public's exclusive control, which may be done by password-controlled access. The remote online notary public may, by agreement, use a software platform or service provider to facilitate provision of remote online notarizations and maintenance of and access to records, but may not allow another person to use the remote online notary public's electronic journal or electronic seal to perform notarial acts or for any unauthorized purpose.

(b) A remote online notary public shall attach the remote online notary public's electronic signature and seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic document evident.

(c) A remote online notary public shall immediately notify an appropriate law enforcement agency and the commissioner of commerce of the theft or vandalism of the remote online notary public's electronic journal, electronic signature, or electronic seal. A remote online notary public shall immediately notify the commissioner of commerce of the loss or use by another person of the remote online notary public's electronic journal or electronic seal.

**Subd. 7. Remote online notarization procedures.** (a) A remote online notary public may perform a remote online notarization authorized under this section that meets the requirements of this section regardless of whether the principal is physically located in this state at the time of the remote online notarization.

(b) In performing a remote online notarization, a remote online notary public shall verify the identity of a person creating an electronic signature at the time that the signature is taken by using communication technology as defined by this section. Identity may be verified by:

(1) the remote online notary public's personal knowledge of the person creating the electronic signature; or

(2) all of the following:

(i) remote presentation by the person creating the electronic signature of a currently valid government-issued identification credential, including a passport or driver's license, that contains the signature and a photograph of the person;

(ii) credential analysis of the credential described in item (i); and

(iii) identity proofing of the person described in item (i).

(c) The remote online notary public shall take reasonable steps to provide that the communication technology used in a remote online notarization is secure from unauthorized interception.

(d) The electronic notarial certificate for a remote online notarization must include a notation that the notarization is a remote online notarization.

(e) A remote online notarial act meeting the requirements of this section satisfies the requirement of any law of this state relating to a notarial act that requires a principal to appear or personally appear before a notary or that the notarial act be performed in the presence of a notary.

**Subd. 8. Termination of remote online notary public's registration.** (a) Except as provided by paragraph (b), a remote online notary public whose registration terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the online notary public's official electronic signature or seal. The remote online notary public shall certify compliance with this paragraph to the secretary of state through the secretary of state's online commission record.

(b) A former remote online notary public whose registration terminated for a reason other than revocation or a denial of renewal is not required to destroy the items described in paragraph (a) if the former remote online notary public is reregistered as a remote online notary public with the same electronic signature and seal within three months after the former remote online notary public's registration terminated.

**Subd. 9. Wrongful possession of software or hardware; criminal offense.** A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling a remote online notary public to affix an official electronic signature or seal commits a misdemeanor.

**Subd. 10. Conflict.** In the event of a conflict between this section and any other law in this state, this section shall prevail.

**Subd. 11. Certificate forms.** In completing the certificate required to document the performance of the notarial act, the form shall indicate that the person appeared before the notary by means of communication technology if that was the method of the person's appearance before the notary.

Subd. 12. **Data classification and availability.** (a) The data collected by a notary public in compliance with this section is not subject to chapter 13, the Government Data Practices Act, but the notary public and the notary public's agent must make a copy of the individual's data included in the electronic journal and the audio-video recording available only to the individual whose signature was notarized or to a guardian, conservator, attorney-in-fact, or personal representative of an incapacitated or deceased individual.

(b) The individual whose signature was notarized or the individual's guardian, conservator, attorney-in-fact, or personal representative of an incapacitated or deceased individual may consent to the release of the data to a third party.

Subd. 13. **Course of study.** The secretary of state shall maintain a list of entities that regularly offer a course of study for a remote online notary public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts performed under this section.

Subd. 14. **Citation.** This section may be cited as the "Remote Online Notarization Act."

**History:** 2018 c 176 art 1 s 15

### **358.646 RECORDING ELECTRONIC DOCUMENTS IN TANGIBLE FORM.**

(a) If a law requires as a condition for recording that a document be an original, be on paper or another tangible medium, be in writing, or be signed, the requirement is satisfied by a paper copy of an electronic document bearing an electronic signature that a notary public has certified to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature pursuant to paragraph (c).

(b) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied by a paper copy of an electronic document bearing an electronic signature of the person authorized to perform that act, and all other information required to be included, that a notary public has certified to be a true and correct copy of a document that was originally in electronic form and bearing an electronic signature of the person pursuant to paragraph (c). A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

(c) The office of the county recorder or the office of registrar of titles shall record a paper copy of a document that was originally in electronic form and that is otherwise entitled to be recorded under the laws of this state, provided that the paper copy has been certified to be a true and correct copy of the electronic original by a notary public duly commissioned under the laws of this state as evidenced by a certificate attached to or made a part of the document. The certificate must:

(1) be signed and dated by the notary public, and be signed in the same manner as required by section 359.061.

(2) identify the jurisdiction in which the certification is performed;

(3) contain the title of the notary public;

(4) indicate the date of expiration, if any, of the notary public's commission; and

(5) include an official seal or stamp of the notary public affixed to the certificate.

(d) The following form of certificate is sufficient for the purposes of this section if completed with the information required by paragraph (c):

State of .....

[County] of .....

I certify that the foregoing and annexed document [entitled ..... (document title, if applicable, or description)] [dated ..... (document date, if applicable)] and containing .... pages is a true and correct copy of an electronic document bearing one or more electronic signatures this ..... [certification date].

.....

Signature of notary public

Seal/Stamp

[.....]

Notary Public

[My commission expires: .....] ]

[My notary commission number is: .....] ]

(e) A notary public duly commissioned under the laws of this state has the authority to make the certification provided in this section.

(f) A notary public making the certification provided in this section shall:

(1) confirm that the electronic document contains an electronic signature that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident;

(2) personally print or supervise the printing of the electronic document onto paper; and

(3) not make any changes or modifications to the electronic document other than the certification described in paragraph (c).

(g) If a certificate is completed with the information required by paragraph (c) and is attached to or made a part of a paper document, the certificate shall be prima facie evidence that the requirements of paragraph (f) have been satisfied with respect to the document.

(h) A document purporting to convey or encumber real property or any interest in the property that has been recorded by the office of the county recorder or the office of registrar of titles for the jurisdiction in which the real property is located, although the document may not have been certified according to this section, shall give the same notice to third persons and be effective from the time of recording as if the document had been certified according to this section.

(i) This section does not apply to a plat, map, or survey of real property if under another law of this state or, if under a rule, regulation, or ordinance applicable to the office of the county recorder or the office of registrar of titles:

(1) there are requirements of format or medium for the execution, creation, or recording of the plat, map, or survey beyond the requirements applicable to a deed to real property; or

(2) the plat, map, or survey must be recorded in a different location than a deed to real property.

**History:** 2018 c 176 art 1 s 16

### **358.65 CERTIFICATE OF NOTARIAL ACT.**

Subdivision 1. **Required.** A notarial act must be evidenced by a certificate. The certificate must:

- (1) be executed contemporaneously with the performance of the notarial act;
- (2) be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the commissioning officer or agency;
- (3) identify the jurisdiction in which the notarial act is performed;
- (4) contain the title of office of the notarial officer; and
- (5) if the officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

Subd. 2. **Official stamp.** If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subdivision 1, clauses (2), (3), and (4), an official stamp may be affixed to or embossed on the certificate. If the notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subdivision 1, clauses (2), (3), and (4), an official stamp may be attached to or logically associated with the certificate.

Subd. 3. **Sufficiency.** A certificate of a notarial act is sufficient if it meets the requirements of subdivisions 1 and 2 and:

- (1) is in a short form set forth in section 358.66;
  - (2) is in a form otherwise permitted by the law of this state;
  - (3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed;
- or
- (4) sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 358.55, 358.56, and 358.57 or law of this state other than sections 358.51 to 358.76.

Subd. 4. **Effect.** By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 358.54, 358.55, and 358.56.

Subd. 5. **When signature is affixed.** A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

Subd. 6. **Records.** If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the commissioning officer or agency has established standards pursuant to section 358.73 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

**History:** 2018 c 176 art 1 s 17

**358.66 SHORT FORM CERTIFICATES.**

(a) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 358.65, subdivisions 1 and 2:

(1) For an acknowledgment in an individual capacity;

State of .....

County of .....

This instrument was acknowledged before me on .....(date) by .....(name(s) of individual(s)).

.....  
(Signature of notarial officer)

(Stamp)

.....  
Title (and Rank)  
My commission expires: .....

(2) For an acknowledgment in a representative capacity:

State of .....

County of .....

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

.....  
(Signature of notarial officer)

(Stamp)

.....  
Title (and Rank)  
My commission expires: .....

(3) For a verification upon oath or affirmation:

State of .....

County of .....

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

.....

(Signature of notarial officer)

(Stamp)

.....

Title (and Rank)

My commission expires: .....

(4) For witnessing or attesting a signature:

State of .....

County of .....

Signed or attested before me on .....(date) by .....(name(s) of individual(s)).

.....

(Signature of notarial officer)

(Stamp)

.....

Title (and Rank)

My commission expires: .....

(5) For attestation of a copy of a document:

State of .....

County of .....

I certify that this is a true and correct copy of a document in the possession of.....

Dated: .....

.....

(Signature of notarial officer)

(Stamp)

.....



Title (and Rank)

My commission expires: .....

(b) For a remote notarization, use of alternate (1) or (2), as appropriate, is sufficient to satisfy the requirements of section 358.645, subdivision 7, paragraph (d):

(1) For a remote notarization when the signer is located outside the United States:

This record was (acknowledged)(signed and sworn to or affirmed)(signed or attested to) by use of communication technology on

..... by .....

Date who declared that (he)(she)(they) (is)(are) located (Name(s) of Individual(s))

in (jurisdiction and location name) and that this record is to be filed with or relates to a matter before a court, governmental entity, public official, or other entity located in the territorial jurisdiction of the United States, or involves property located in the territorial jurisdiction of, or a transaction substantially connected with, the United States.

Or;

(2) For a remote notarization when the signer is located in Minnesota or the United States:

This record was (acknowledged)(signed and sworn to or affirmed)(signed or attested to) by use of communication technology on

..... by .....

Date who declared that (he)(she)(they) (is)(are) located (Name(s) of Individual(s))

in (jurisdiction and location name).

**History:** 2018 c 176 art 1 s 18

**358.67 OFFICIAL STAMP.**

The official stamp of a notary public must:

(1) satisfy the requirements of section 359.03; and

(2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

**History:** 2018 c 176 art 1 s 19

**358.68 STAMPING DEVICE SECURITY.**

A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act.

**History:** 2018 c 176 art 1 s 20

**358.69 PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD.**

Subdivision 1. **Selection of technology.** (a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) For purposes of this subdivision, "tamper-evident" means that any changes to an electronic document must display evidence of the change.

Subd. 2. **Notification.** Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall satisfy the requirements of section 359.01, subdivision 5, and shall notify the commissioning officer or agency that the notary public will be performing notarial acts with respect to electronic records.

**History:** 2018 c 176 art 1 s 21

**358.70 GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC.**

Subdivision 1. **Generally.** The commissioner of commerce has all the powers provided by section 45.027 and may proceed in the manner provided by that section in actions against a notary public for any act or omission that demonstrates an individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

- (1) failure to comply with sections 358.51 to 358.76;
- (2) fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the commissioning officer or agency;
- (3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;
- (4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;
- (5) failure by the notary public to discharge any duty required of a notarial officer, whether by sections 358.51 to 358.76 or any federal or state law or regulation;
- (6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;
- (7) denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

(8) suspension or revocation of a license for the conduct of a profession, occupation, trade, or business of a notary public who is performing notarial acts in connection with the profession, occupation, trade, or business.

For purposes of this clause, "license" means a permit, registration, certification, or other form of approval authorized by statute or rule issued by the state or a political subdivision of the state as a condition of doing business, or conducting a trade, profession, or occupation in Minnesota.

Subd. 2. **Removal from office.** A notary may be removed from office only by the governor, the district court, or the commissioner of commerce.

Subd. 3. **Notice and hearing.** If the commissioner of commerce denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 14.

Subd. 4. **Other remedies.** The authority of the commissioner of commerce to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

Subd. 5. **Surrender of stamp.** Notwithstanding section 359.03, subdivision 1, upon removal from office by the commissioner of commerce, a notary public shall deliver the notary's official stamp to the commissioner of commerce.

**History:** 2018 c 176 art 1 s 22

### 358.71 DATABASE OF NOTARIES PUBLIC.

The secretary of state shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts, including notarial acts pursuant to section 358.645; and

(2) which indicates whether a notary public has applied to the commissioning officer or agency to perform notarial acts on electronic records or to perform notarial acts pursuant to section 358.645.

**History:** 2018 c 176 art 1 s 23

### 358.72 PROHIBITED ACTS.

Subdivision 1. **Generally.** A commission as a notary public does not authorize an individual to:

(1) assist persons in drafting legal records, give legal advice, or otherwise practice law;

(2) act as an immigration consultant or an expert on immigration matters;

(3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or

(4) receive compensation for performing any of the activities listed in this subdivision.

Subd. 2. **False or deceptive advertising.** A notary public may not engage in false or deceptive advertising.

Subd. 3. **Terms.** A notary public may not use the term "notario" or "notario publico."

Subd. 4. **Unauthorized practice of law.** A notary public, other than an attorney licensed to practice law in this state, may not advertise that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, digital media, and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the commissioning officer or agency, in the advertisement or representation, prominently and in each language used in the advertisement: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement is not broadcast media, print media, or the Internet, and does not permit the inclusion of the statement required by this subdivision because of size, it must be prominently displayed or provided at the place of performance of the notarial act before the notarial act is performed.

Subd. 5. **Withholding access to, or possession of, an original record.** Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

**History:** 2018 c 176 art 1 s 24

### **358.73 VALIDITY OF NOTARIAL ACTS.**

Except as otherwise provided in section 358.54, subdivision 2, the failure of a notarial officer to perform a duty or meet a requirement specified in sections 358.51 to 358.76 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under sections 358.51 to 358.76 does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than sections 358.51 to 358.76 or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

**History:** 2018 c 176 art 1 s 25

### **358.74 NOTARY PUBLIC COMMISSION IN EFFECT.**

A commission as a notary public in effect on January 1, 2019, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2019, is subject to and shall comply with sections 358.51 to 358.76. A notary public, in performing notarial acts after January 1, 2019, shall comply with sections 358.51 to 358.76.

**History:** 2018 c 176 art 1 s 26

### **358.75 SAVINGS CLAUSE.**

Sections 358.51 to 358.76 do not affect the validity or effect of a notarial act performed before January 1, 2019.

**History:** 2018 c 176 art 1 s 27

### **358.76 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.**

Sections 358.51 to 358.76 modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001, et seq., but do not modify, limit, or supersede

section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

**History:** *2018 c 176 art 1 s 28*