

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 915

By: Rosino of the Senate

7 and

8 Kannady and **West (Josh)** of
9 the House

10 COMMITTEE SUBSTITUTE

11 An Act relating to remote online notarial acts;
12 authorizing recordation of electronic documents in
13 tangible form; providing for certification of paper
14 or tangible copies of electronic records; clarifying
15 scope of authority; providing definitions; requiring
16 the Secretary of State to promulgate standards
17 regulating remote online notarizations; providing for
18 registration requirements; authorizing performance of
19 remote online notarial acts; requiring the creation
20 and retention of certain electronic records;
21 providing for use of electronic signatures and seals;
22 providing procedures for performance of remote online
23 notarial acts; authorizing fee for remote online
24 notarial acts; requiring notaries public to destroy
electronic software upon termination of commission;
providing legal recognition of remote online notarial
acts; providing for validity of remote online
notarial acts; providing for applicability of the
Remote Online Notary Act; providing for relation of
the Remote Online Notary Act to the Electronic
Signatures in Global and National Commerce Act;
amending 49 O.S. 2011, Section 5, which relates to
notarial seals and authentication of documents;
authorizing use of electronic signatures and seals;
providing for codification; and providing an
effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 87 of Title 16, unless there is
4 created a duplication in numbering, reads as follows:

5 RECORDATION OF ELECTRONIC DOCUMENTS IN TANGIBLE FORM.

6 A. As used in this section:

7 1. "Document" means information that is:

8 a. inscribed on a tangible medium or that is stored in an
9 electronic or other medium and is retrievable in
10 perceivable form, and

11 b. eligible to be recorded in the office of the county
12 clerk;

13 2. "Electronic" means relating to technology having electrical,
14 digital, magnetic, wireless, optical, electromagnetic or similar
15 capabilities;

16 3. "Electronic document" means a document created, generated,
17 sent, communicated, received or stored by electronic means; and

18 4. "Electronic signature" means an electronic sound, symbol or
19 process attached to or logically associated with an electronic
20 document and executed or adopted by a person with the intent to sign
21 the electronic document.

22 B. A paper or tangible copy of an electronic document that a
23 notary public has certified to be a true and correct copy under
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1 subsection C of this section satisfies any requirement of law that,
2 as a condition for recording, the document:

3 1. Be an original or be in writing;

4 2. Be signed or contain an original signature, if the document
5 contains an electronic signature of the person required to sign the
6 document; and

7 3. Be notarized, acknowledged, verified, witnessed or made
8 under oath, if the document contains an electronic signature of the
9 person authorized to perform that act, and all other information
10 required to be included.

11 C. A notary public commissioned under Section 1 of Title 49 of
12 the Oklahoma Statutes may certify that a paper or tangible copy of
13 an electronic document is a true and correct copy of the electronic
14 document if the notary public has:

15 1. Reasonably confirmed that the electronic document is in a
16 tamper-evident format;

17 2. Detected no changes or errors in any electronic signature or
18 other information in the electronic document;

19 3. Personally printed or supervised the printing of the
20 electronic document onto paper or other tangible medium; and

21 4. Not made any changes or modifications to the electronic
22 document or to the paper or tangible copy thereof other than the
23 certification described in this subsection.

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1 D. A county clerk shall record a paper or tangible copy of a
2 document that is otherwise entitled to be recorded under the laws of
3 this state, provided that the paper or tangible copy has been
4 certified by a notary public to be a true and correct copy of an
5 electronic document under subsection C of this section as evidenced
6 by a certificate. The certificate shall be completed in the manner
7 required in subsection A of Section 118 of Title 49 of the Oklahoma
8 Statutes.

9 E. The following form of certificate is sufficient for the
10 purposes of this section if completed in the manner required by
11 subsection D of this section:

12 State of

13 County of

14 I certify that the preceding or attached document (entitled
15 (document title)), (dated (document date)), containing (number)
16 pages is a true and correct copy of an electronic document printed
17 by me or under my supervision, and that, at the time of printing, no
18 security features present on the electronic document indicated any
19 changes or errors in an electronic signature or other information in
20 the electronic document since its creation or execution.

21 Dated

22 (Signature of notary public)

23 (Notary seal)

24 Notary Public

1 (My commission expires:)

2 F. If a certificate is completed in the manner required by
3 subsection D of this section and is attached to or made a part of a
4 paper or tangible document, the certificate is prima facie evidence
5 that the requirements of subsection C of this section have been
6 satisfied with respect to the document.

7 G. When any paper or tangible copy of an electronic document
8 shall have been recorded in the office of the county clerk in the
9 proper county, and the document was not certified in accordance with
10 this section, such document shall, from and after the time of the
11 filing thereof for record, be valid as though such document had, in
12 the first instance, been in all respects duly certified in
13 accordance with this section. Such document or the record thereof
14 or a duly authenticated copy thereof shall be competent evidence
15 without requiring the original to be produced or accounted for to
16 the same extent that written documents, duly executed and
17 acknowledged, or the record thereof are competent. This subsection
18 shall apply to documents recorded before or after January 1, 2020.

19 H. This section does not apply to a plat, plan, map or survey
20 of real property if under another law of this state or a rule,
21 regulation or ordinance applicable to a county clerk:

22 1. There are requirements of format or medium for the
23 execution, creation or recordation of such plat, plan, map or survey
24 beyond the requirements applicable to a deed to real property; or

1 2. Such plat, plan, map or survey shall be recorded in a
2 different location than a deed to real property.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 201 of Title 49, unless there is
5 created a duplication in numbering, reads as follows:

6 SHORT TITLE. A. Sections 2 through 15 of this act shall be
7 known and may be cited as the "Remote Online Notary Act".

8 B. Nothing in this act shall permit a notary to take testimony,
9 certify transcripts, or otherwise exercise any authority of a
10 certified or licensed shorthand reporter, as provided in Sections
11 1501 through 1513 of Title 20 of the Oklahoma Statutes.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 202 of Title 49, unless there is
14 created a duplication in numbering, reads as follows:

15 As used in the Remote Online Notary Act:

16 1. "Communication technology" means an electronic device or
17 process that allows a notary public and a remotely located
18 individual to communicate with each other by sight and sound;

19 2. "Credential analysis" means a process or service that meets
20 the standards under Section 4 of this act through which a third
21 person affirms the validity of an identification credential through
22 review of public or private data sources;

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1 3. "Electronic" means relating to technology having electrical,
2 digital, magnetic, wireless, optical, electromagnetic or similar
3 capabilities;

4 4. "Electronic record" means information that is created,
5 generated, sent, communicated, received or stored by electronic
6 means;

7 5. "Electronic seal" means an electronic image containing
8 information attached to or logically associated with an electronic
9 record that contains the notary public's name exactly as indicated
10 on the notary's commission, the words "State of Oklahoma" and
11 "Notary Public", and the notary public's commission number and the
12 date of expiration of the notary public's commission;

13 6. "Electronic signature" means an electronic sound, symbol or
14 process attached to or logically associated with an electronic
15 record and executed or adopted by a person with the intent to sign
16 the electronic record;

17 7. "Foreign state" means a jurisdiction other than the United
18 States, a state or a federally recognized Indian tribe;

19 8. "Identity proofing" means a process or service that meets
20 the standards under Section 4 of this act through which a third
21 person provides a notary public with a means to verify the identity
22 of a remotely located individual by a review of personal information
23 from public or private data sources;

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1 9. "Notarial act" or "Notarization" means an act that a notary
2 public is authorized to perform under subsection A of Section 6 of
3 Title 49 of the Oklahoma Statutes or under any other law of this
4 state;

5 10. "Outside the United States" means a location outside the
6 geographic boundaries of the United States, Puerto Rico, the United
7 States Virgin Islands and any territory, insular possession or other
8 location subject to the jurisdiction of the United States;

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

14 12. "Personal knowledge" means knowledge through dealings
15 sufficient to provide reasonable certainty that the individual has
16 the identity claimed, and "personally known" and "personally knows"
17 have corresponding meanings;

18 13. "Principal" means a remotely located individual whose
19 signature is notarized in a remote online notarization, whether in
20 an individual or representative capacity, or who makes an oath,
21 affirmation or acknowledgment in a remote online notarization, other
22 than in the capacity of a witness;

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1 14. "Remote online notarization" or "remote online notarial
2 act" means a notarial act performed by means of communication
3 technology under this act;

4 15. "Remote presentation" means transmission to a notary public
5 through communication technology of an image of a remotely located
6 individual's identification credential that is of sufficient quality
7 to enable the notary public to reasonably identify the remotely
8 located individual and to perform credential analysis;

9 16. "Remotely located individual" means an individual who is
10 not in the physical presence of the notary public who performs a
11 remote online notarization; and

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

16 SECTION 4. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 203 of Title 49, unless there is
18 created a duplication in numbering, reads as follows:

19 RULEMAKING; ADMINISTRATION OF STANDARDS.

20 A. The Secretary of State shall promulgate rules to implement
21 and ensure the effective administration of the provisions of
22 Sections 1 through 15 of this act and Sections 1 through 12 of Title
23 49 of the Oklahoma Statutes. The rules shall provide standards for:
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- 1 1. Ensuring integrity in the creation, transmittal, storage and
2 authentication of electronic signatures, electronic seals and
3 electronic records;
- 4 2. The means of performing remote online notarial acts;
- 5 3. Communication technology, credential analysis and identity
6 proofing;
- 7 4. The retention of journals and audio and visual recordings
8 under Section 7 of this act;
- 9 5. Sufficient forms of notarial certificates for remote online
10 notarizations; and
- 11 6. Other matters as deemed necessary by the Secretary of State
12 to implement and administer the provisions of Sections 1 through 15
13 of this act and Sections 1 through 12 of Title 49 of the Oklahoma
14 Statutes.
- 15 B. In promulgating, amending, supplementing and repealing rules
16 under this section, the Secretary of State may consider standards
17 adopted by national standard-setting bodies such as the National
18 Association of Secretaries of State and the Mortgage Industry
19 Standards and Maintenance Organization, the standards and practices
20 of other jurisdictions that have laws substantially similar to the
21 provisions of Title 49 of the Oklahoma Statutes, and the views of
22 government officials and other interested persons.
- 23 C. The rules promulgated under this section may be amended,
24 supplemented and repealed.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 204 of Title 49, unless there is
3 created a duplication in numbering, reads as follows:

4 REGISTRATION REQUIRED.

5 A. A notary public appointed and commissioned under Section 1
6 of Title 49 of the Oklahoma Statutes may perform remote online
7 notarizations under Title 49 of the Oklahoma Statutes if authorized
8 by the Secretary of State. Before a notary public performs the
9 notary public's initial remote online notarization, the notary
10 public shall register with the Secretary of State under subsection C
11 of this section and receive written authorization from the Secretary
12 of State under subsection D of this section. An individual may
13 apply for a commission under Section 1 of Title 49 of the Oklahoma
14 Statutes and apply for registration under this section at the same
15 time.

16 B. A notary public applying to register to perform remote
17 online notarizations shall pay a fee of Twenty-five Dollars (\$25.00)
18 to the Secretary of State with the application. These funds shall
19 be deposited in the revolving fund created for the Secretary of
20 State under Section 276.1 of Title 62 of the Oklahoma Statutes.

21 C. A notary public registering to perform remote online
22 notarizations under this section shall submit a completed
23 application using the forms or format required by the Secretary of
24 State that shall include:

1 1. The full legal name of the applicant and the applicant's
2 official name as it appears on the applicant's notarial commission
3 under Section 1 of Title 49 of the Oklahoma Statutes;

4 2. A description of the technology the applicant intends to use
5 in performing remote online notarizations;

6 3. A statement that the applicant will comply with the
7 standards under Section 4 of this act; and

8 4. Any other information the Secretary of State may by rule
9 require.

10 D. If the technology identified by the applicant conforms to
11 the standards under Section 4 of this act and the applicant has
12 satisfied the requirements of this section, the Secretary of State
13 shall approve the use of the technology and issue to the applicant
14 written authorization to perform remote online notarizations during
15 the term of the applicant's notarial commission under Section 1 of
16 Title 49 of the Oklahoma Statutes.

17 E. The Secretary of State may deny a notary public's
18 application for registration under this section:

19 1. For a reason for which the Secretary of State may deny,
20 refuse to renew or revoke a commission under subsection A of Section
21 12 of Title 49 of the Oklahoma Statutes;

22 2. For a violation of the rules under Section 4 of this act;

23 3. If the technology identified by the notary public does not
24 conform to the standards under Section 4 of this act; or

1 4. If any information on the application is missing, inaccurate
2 or incomplete.

3 F. The term of a notary public's authorization to perform
4 remote online notarizations begins on the authorization date set by
5 the Secretary of State and terminates on the commission's expiration
6 date. The renewal of a notary public's commission pursuant to
7 Section 1 of Title 49 of the Oklahoma Statutes shall not constitute
8 the renewal of the notary public's authorization to perform remote
9 online notarizations under this section.

10 G. A notary public's authorization to perform remote online
11 notarizations terminates if:

12 1. The notary public's name changes during the term of the
13 notary public's commission; and

14 2. The notary public elects to use the notary public's new name
15 under a new commission pursuant to paragraph 2 of subsection B of
16 Section 11 of Title 49 of the Oklahoma Statutes.

17 H. Nothing in this section shall be construed as prohibiting a
18 notary public from receiving, installing or utilizing a hardware or
19 software update to the technology that the notary public identified
20 under this section if the hardware or software update does not
21 result in a technology that is materially different from the
22 technology that the notary public identified under this section.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 205 of Title 49, unless there is
3 created a duplication in numbering, reads as follows:

4 AUTHORITY TO PERFORM REMOTE ONLINE NOTARIAL ACTS.

5 A notary public physically located in this state and authorized
6 to perform remote online notarizations under Section 5 of this act
7 may perform a notarial act by means of communication technology for
8 a remotely located individual who is physically located:

- 9 1. In this state;
- 10 2. Outside this state but not outside the United States; or
- 11 3. Outside the United States if:
 - 12 a. the electronic record:
 - 13 (i) is to be filed with or relates to a matter before
 - 14 a court, governmental entity, public official or
 - 15 other entity subject to the jurisdiction of the
 - 16 United States, or
 - 17 (ii) involves property located in the territorial
 - 18 jurisdiction of the United States or a
 - 19 transaction substantially connected to the United
 - 20 States, and
 - 21 b. the notary public has no actual knowledge that the act
 - 22 of making the statement or signing the electronic
 - 23 record is prohibited by the foreign state in which the
 - 24 remotely located individual is located.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 206 of Title 49, unless there is
3 created a duplication in numbering, reads as follows:

4 ELECTRONIC RECORD OF REMOTE ONLINE NOTARIAL ACTS.

5 A. A notary public shall maintain a journal in a permanent,
6 tamper-evident electronic format complying with standards
7 promulgated by the Secretary of State in which the notary public
8 chronicles all remote online notarial acts that the notary public
9 performs. An entry in a journal shall be made contemporaneously
10 with the performance of the remote online notarial act and contain
11 the following information:

- 12 1. The date and time of the remote online notarial act;
- 13 2. A description of the document, if any, and type of notarial
14 act;
- 15 3. The full name and address of each principal for whom the
16 notarial act is performed;
- 17 4. If the identity of the principal is based on personal
18 knowledge, a statement to that effect;
- 19 5. If identity of the principal is based on credential analysis
20 and identity proofing, a brief description of the results of the
21 identity verification process and the identification credential
22 remotely presented, including the date of issuance and expiration of
23 the identification credential;

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1 6. If identity of the principal is based on oath or affirmation
2 of a credible witness, the information identified in paragraph 4 or
3 5 of this subsection, as applicable, that provided a basis for the
4 notary public's identification of the credible witness, a statement
5 of the basis by which the credible witness claims personal knowledge
6 of the principal, the location of the credible witness, and the full
7 name and address of the credible witness; and

8 7. The fee, if any, charged by the notary public.

9 B. A notary public, or a person acting on behalf of the notary
10 public, shall create an audio and visual recording of the
11 performance of each remote online notarial act.

12 C. A notary public shall take reasonable steps to:

13 1. Ensure the integrity, security and authenticity of remote
14 online notarial acts;

15 2. Maintain a backup of the journal and the audio and visual
16 recording; and

17 3. Protect the backup from unauthorized use.

18 D. A notary public, a guardian, conservator or agent of the
19 notary public, or a personal representative of a deceased notary
20 public shall retain the journal and the audio and visual recording
21 or cause the journal and the recording to be retained by a
22 depository designated by or on behalf of the person required to
23 retain the journal and the recording. The recording shall be
24 retained for at least ten (10) years from the date of the remote

1 online notarial act. The journal shall be retained for at least ten
2 (10) years after the performance of the last remote online notarial
3 act chronicled in the journal.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 207 of Title 49, unless there is
6 created a duplication in numbering, reads as follows:

7 USE OF ELECTRONIC SIGNATURE AND SEAL.

8 A. In performing a remote online notarial act, a notary public
9 shall attach or logically associate the notary public's electronic
10 signature and electronic seal to the certificate of notarial act in
11 a tamper-evident format. The electronic seal shall be capable of
12 being copied together with the electronic record to which it is
13 attached or with which it is logically associated. The certificate
14 shall be attached to or logically associated with the electronic
15 record that is the subject of the remote online notarial act. If
16 the Secretary of State has approved standards under Section 4 of
17 this act for attaching or logically associating the electronic
18 signature, electronic seal or certificate, the process shall conform
19 to the standards.

20 B. A notary public's use of an electronic signature and
21 electronic seal under this section satisfies the requirement of
22 Section 5 of Title 49 of the Oklahoma Statutes that a notary public
23 authenticate an official act with an official signature and seal of
24 office.

1 C. A notary public shall take reasonable steps to protect the
2 notary public's electronic seal from unauthorized use. A notary
3 public may not allow another person to use the notary public's
4 electronic seal.

5 D. A notary public shall immediately notify an appropriate law
6 enforcement agency and the Secretary of State upon actual knowledge
7 of the theft or vandalism of the notary public's journal or
8 electronic seal. A notary public shall immediately notify the
9 Secretary of State upon actual knowledge of the loss or use by
10 another person of the notary public's journal or electronic seal.

11 E. Unless required as part of the application under subsection
12 C of Section 5 of this act, a notary public is not required to
13 submit an image of the notary public's electronic seal to the
14 Secretary of State. A notary public's electronic seal is not
15 subject to the requirement that an impression be filed with and
16 approved by the Secretary of State under Section 2 of Title 49 of
17 the Oklahoma Statutes.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 208 of Title 49, unless there is
20 created a duplication in numbering, reads as follows:

21 REMOTE ONLINE NOTARIZATION PROCEDURES.

22 A. Before performing a remote online notarial act, a notary
23 public shall:

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1 1. Reasonably identify the electronic record before the notary
2 public as the same electronic record in which the principal made a
3 statement or on which the principal executed or adopted an
4 electronic signature; and

5 2. Take reasonable steps to ensure that the communication
6 technology used in the remote online notarial act is secure from
7 unauthorized interception.

8 B. In performing a remote online notarial act, a notary shall
9 reasonably verify the identity of the principal by:

10 1. The notary public's personal knowledge of the principal;

11 2. Each of the following:

12 a. remote presentation by the principal of a current
13 government-issued identification credential containing
14 the photograph and signature of the principal,

15 b. credential analysis of the identification credential,
16 and

17 c. identity proofing of the principal; or

18 3. Oath or affirmation of a credible witness who personally
19 knows the principal if:

20 a. the credible witness is personally known to the notary
21 public, or

22 b. the notary public has reasonably verified the identity
23 of the credible witness under paragraph 2 of this
24 subsection.

1 C. A notary public may:

2 1. Require a principal or credible witness to provide
3 additional information necessary to assure the notary public of the
4 identity of the principal or credible witness; and

5 2. Refuse to perform a remote online notarial act if the remote
6 online notary public is not satisfied as to the identity of a
7 principal.

8 D. A credible witness under subsection B of this section who
9 is:

10 1. Physically present with a principal at the time of a remote
11 online notarial act may be a remotely located individual if the
12 credible witness and notary public communicate by means of
13 communication technology; or

14 2. Physically present with a notary public at the time of a
15 remote online notarial act may be outside the physical presence of a
16 principal if the credible witness and principal communicate by means
17 of communication technology.

18 E. The certificate of notarial act for a remote online
19 notarization shall indicate that the notarial act was a remote
20 online notarial act performed by means of communication technology.
21 A certificate is sufficient to satisfy the requirement of this
22 subsection if it:

23 1. Complies with standards under Section 4 of this act; or
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1 2. Is in a form otherwise sufficient under the laws of this
2 state and contains a statement substantially as follows: "This
3 remote online notarization involved the use of communication
4 technology."

5 SECTION 10. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 209 of Title 49, unless there is
7 created a duplication in numbering, reads as follows:

8 FEES.

9 A notary public, or a person acting for or on behalf of a notary
10 public, may charge and collect a fee not to exceed Twenty-five
11 Dollars (\$25.00) for a remote online notarial act.

12 SECTION 11. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 210 of Title 49, unless there is
14 created a duplication in numbering, reads as follows:

15 TERMINATION OF NOTARY PUBLIC'S COMMISSION.

16 A. Except as provided by subsection B of this section, a notary
17 public authorized to perform remote online notarial acts whose
18 commission is terminated or revoked shall destroy the coding, disk,
19 certificate, card, software or password that enables the notary
20 public to attach or logically associate the notary public's
21 electronic signature and electronic seal to an electronic record. A
22 notary public subject to the provisions of this subsection shall
23 certify compliance with this subsection to the Secretary of State.
24 On the death or adjudication of incompetency of a notary public, the

1 notary public's personal representative or guardian shall comply
2 with the provisions of this subsection.

3 B. A former notary public whose commission is terminated for a
4 reason other than revocation is not required to destroy the items
5 described by subsection A of this section if the former notary
6 public receives a new commission as a notary public within three (3)
7 months of the termination of the notary public's former commission.

8 C. A notary public's electronic signature and electronic seal
9 shall be destroyed under subsection A of this section if:

10 1. The notary public's name changes during the term of the
11 notary public's commission; and

12 2. The notary public elects to use the notary public's new name
13 under a new commission pursuant to paragraph 2 of subsection B of
14 Section 11 of Title 49 of the Oklahoma Statutes.

15 D. The termination of a notary public's commission shall not
16 affect the retention requirements of subsection D of Section 7 of
17 this act.

18 SECTION 12. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 211 of Title 49, unless there is
20 created a duplication in numbering, reads as follows:

21 LEGAL RECOGNITION OF REMOTE ONLINE NOTARIAL ACTS.

22 A. A remote online notarization under this act satisfies any
23 requirement of law of this state that a principal appear before,
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1 appear personally before, or be in the physical presence of a notary
2 public at the time of the performance of the notarial act.

3 B. A notary public's verification of a principal's identity
4 under subsection B of Section 9 of this act constitutes satisfactory
5 evidence of identity of the principal and satisfies any requirement
6 of law of this state that the notary public obtain satisfactory
7 evidence of identity of the principal.

8 SECTION 13. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 212 of Title 49, unless there is
10 created a duplication in numbering, reads as follows:

11 VALIDITY OF REMOTE ONLINE NOTARIAL ACTS.

12 The failure of a notary public to perform a duty or meet a
13 requirement specified in this act does not invalidate a remote
14 online notarial act performed by the notary public. The validity of
15 a remote online notarial act under this act does not prevent an
16 aggrieved person from seeking to invalidate the electronic record or
17 transaction that is the subject of the remote online notarial act or
18 from seeking other remedies based on law of this state other than
19 this chapter or based on law of the United States. This section
20 does not validate a purported remote online notarial act performed
21 by an individual who does not have the authority to perform remote
22 online notarial acts.

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1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 213 of Title 49, unless there is
3 created a duplication in numbering, reads as follows:

4 APPLICABLE LAW; CONFLICT OF LAWS.

5 A. The validity of a remote online notarization performed under
6 the Remote Online Notary Act is determined by applying the laws of
7 this state, regardless of the physical location of the principal at
8 the time of the remote online notarization.

9 B. In the event of a conflict between a provision of the Remote
10 Online Notary Act and another provision of Title 49 of the Oklahoma
11 Statutes or any other law of this state, the provision of the Remote
12 Online Notary Act controls.

13 SECTION 15. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 214 of Title 49, unless there is
15 created a duplication in numbering, reads as follows:

16 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
17 COMMERCE ACT.

18 The Remote Online Notary Act modifies, limits and supersedes the
19 federal Electronic Signatures in Global and National Commerce Act
20 (15 U.S.C. Section 7001, et seq.) but does not modify, limit or
21 supersede Section 101(c) of that act (15 U.S.C. Section 7001(c)) or
22 authorize electronic delivery of any of the notices described in
23 Section 103(b) of that act (15 U.S.C. Section 7003(b)).

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1 SECTION 16. AMENDATORY 49 O.S. 2011, Section 5, is
2 amended to read as follows:

3 Section 5. A. Every notary shall obtain a notarial seal
4 containing the words "State of Oklahoma" and "Notary Public" and the
5 notary's name. This seal may be either a metal seal which leaves an
6 embossed impression or a rubber stamp used in conjunction with a
7 stamp pad and ink. Each notary shall authenticate all official
8 acts, attestations, and instruments with this seal; and shall add to
9 the notary's official signature, the commission number of the notary
10 and the date of expiration of the commission of the notary. Failure
11 to add the commission number or the date of expiration of the
12 commission shall not affect the recordability of the instrument or
13 the notice given by such recording. This date and commission number
14 may be a part of the stamp or seal. If any notary public shall
15 neglect or refuse to attach to the notary's official signature the
16 date of expiration of the notary's commission, the notary shall be
17 deemed guilty of a misdemeanor, and upon conviction thereof shall be
18 fined in any sum not exceeding Fifty Dollars (\$50.00). The maximum
19 fee a notary may charge and collect for each notarial act is Five
20 Dollars (\$5.00), except no fee shall be charged for the notarization
21 of an official absentee ballot affidavit.

22 B. As authorized by Section 15-111 of Title 12A of the Oklahoma
23 Statutes, regarding electronic transactions, a notary public's use
24 of an electronic signature and electronic seal satisfies the

1 requirement in this section to authenticate an official act with an
2 official signature and seal of office. The electronic seal must
3 legibly reproduce the required elements of the notarial seal.

4 SECTION 17. This act shall become effective January 1, 2020.

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6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/04/2019 - DO
7 PASS, As Amended and Coauthored.

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