



General Assembly

January Session, 2001

***Raised Bill No. 6979***

LCO No. 4630

Referred to Committee on Government Administration and Elections

Introduced by:  
(GAE)

***AN ACT CONCERNING ELECTRONIC NOTARIZATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 3-94a of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 The following terms, when used in sections 3-94a to 3-95, inclusive,  
4 and sections 2 to 11, inclusive, of this act shall have the following  
5 meanings unless the context otherwise requires:

6 (1) "Acknowledgment" means a notarial act in which a notary public  
7 certifies that a signatory, whose identity is personally known to the  
8 notary public or proven on the basis of satisfactory evidence, has  
9 admitted, in the notary public's presence, to having voluntarily signed  
10 a document for its stated purpose.

11 (2) "Jurat" means a notarial act in which a notary public certifies that  
12 a signatory, whose identity is personally known to the notary public or  
13 proven on the basis of satisfactory evidence, has made, in the notary  
14 public's presence, a voluntary signature and taken an oath or

15 affirmation vouching for the truthfulness of the signed document.

16 (3) "Notarial act" or "notarization" means any act that a notary  
17 public is empowered to perform under the general statutes.

18 (4) "Notarial certificate" or "certificate" means the part of, or  
19 attachment to, a notarized document to be completed and signed by  
20 the notary public.

21 (5) "Notary public" or "notary" means any person appointed by the  
22 Secretary of the State to perform notarial acts.

23 (6) "Oath" or "affirmation" means a notarial act or part thereof in  
24 which a notary public certifies that a person has made a vow in the  
25 presence of the notary public on penalty of perjury. In the case of an  
26 oath, the vow shall include reference to a Supreme Being unless an  
27 affirmation is administered as provided by section 1-23.

28 (7) "Official misconduct" means (A) a notary public's performance of  
29 an act prohibited by the general statutes or failure to perform an act  
30 mandated by the general statutes, or (B) a notary public's performance  
31 of a notarial act in a manner found to be negligent, illegal or against  
32 the public interest.

33 (8) "Personal knowledge of identity" means familiarity with an  
34 individual resulting from interaction with that individual over a  
35 period of time sufficient to eliminate any reasonable doubt that the  
36 individual has the identity claimed.

37 (9) "Satisfactory evidence of identity" means identification of an  
38 individual based on (A) at least two current documents, one issued by  
39 a federal or state government and containing the individual's signature  
40 and either a photograph or physical description, and the other by an  
41 institution, business entity or state government or the federal  
42 government and containing at least the individual's signature, or (B)  
43 the oath or affirmation of a credible person who is personally known  
44 to the notary public and who personally knows the individual.

45 (10) "Secretary" means the Secretary of the State.

46 (11) "Electronic" means relating to technology having electrical,  
47 digital, magnetic, wireless, optical, electromagnetic or similar  
48 capabilities.

49 (12) "Electronic notary public" or "electronic notary" means a notary  
50 public who has registered with the Secretary of the State the capability  
51 of performing electronic notarial acts, in accordance with the  
52 provisions of sections 2 to 11, inclusive, of this act.

53 (13) "Electronic document" means information that is created,  
54 generated, sent, communicated, received or stored by electronic  
55 means.

56 (14) "Electronic journal of notarial acts" means an electronic device  
57 for notating the performance of notarial acts that is under the direct  
58 and exclusive control of the notary and has:

59 (A) Safeguards in place to prevent and reveal any unauthorized  
60 access to or tampering with the content or chronology of the electronic  
61 record;

62 (B) A backup system in place to prevent loss of the electronic record  
63 by theft, vandalism, accident or natural disaster;

64 (C) The capability of capturing and storing the image of a  
65 handwritten signature and a thumbprint as they are made, or of  
66 capturing and storing in retrievable form, in lieu of a thumbprint, any  
67 other recognized biometric identifier;

68 (D) The capability of printing out on paper any entry, including the  
69 image of any related handwritten signature or thumbprint, or of  
70 retrieving in perceivable form, in lieu of a thumbprint, any other  
71 recognized biometric identifier and relating it to an entry; and

72 (E) The capability of capturing and storing the image of a paper

73 document and of reprinting the image on paper and relating it to an  
74 entry.

75 (15) "Electronic notarial act" and "electronic notarization" mean an  
76 official act by an electronic notary public that involves electronic  
77 documents.

78 (16) "Electronic notary seal" or "electronic seal" means information  
79 within a notarized electronic document that identifies the notary,  
80 provides evidence of the notary's authority and generally corresponds  
81 to data in notary seals used on paper documents.

82 (17) "Electronic signature" means an electronic sound, symbol or  
83 process attached to or logically associated with a record and executed  
84 or adopted by a person with the intent to sign the record.

85 Sec. 2. (NEW) (a) Before performing electronic notarial acts, a notary  
86 shall take an eight-hour course of instruction approved by the  
87 Secretary of the State and pass an examination of the course. The  
88 content of the course and the basis for the examination shall be notarial  
89 laws, procedures and ethics as they pertain to electronic notarization.

90 (b) Before performing electronic notarial acts, a notary shall also  
91 register the capability to notarize electronically with the secretary.  
92 Before performing electronic notarial acts after being reappointed as a  
93 notary, an electronic notary shall reregister such capability with the  
94 secretary.

95 (c) An electronic form shall be used by a notary in registering with  
96 the secretary under this section. Said form shall include:

97 (1) A description of the registrant's relevant training and experience  
98 with computers and electronic data interchange, including any course  
99 of instruction on electronic notarization;

100 (2) A description of the technology the registrant will use to create  
101 an official signature in performing electronic notarial acts;

102 (3) The name of any authority that issued or registered the electronic  
103 device used to create the registrant's electronic signature and the  
104 source of the authority's license, if any;

105 (4) The starting and expiration dates of any registered electronic  
106 device used to create the registrant's electronic signature;

107 (5) Any revocations, annulments or other premature terminations of  
108 any registered electronic device of the registrant that was due to  
109 misuse or compromise of the device, with the date, cause and nature of  
110 each termination explained in detail;

111 (6) A general description of security measures that the registrant has  
112 put in place to prevent unauthorized use of the registrant's electronic  
113 signature;

114 (7) A description of the computer hardware and software the  
115 registrant will use to perform electronic notarial acts, and the address  
116 or site where they will be housed; and

117 (8) The e-mail address of the registrant.

118 (d) The electronic registration form for a notary shall: (1) Be signed  
119 by the registrant using the electronic signature described in the form;  
120 (2) include any decrypting instructions, codes or software that allow  
121 the registration to be read; and (3) be transmitted electronically to the  
122 secretary.

123 (e) The fee payable to the secretary for registering or reregistering as  
124 an electronic notary is \_\_\_\_ dollars.

125 (f) Information in the registration form submitted to the secretary  
126 under this section, which pertains to a description of any security  
127 measures, shall be used by the secretary and designated employees of  
128 the secretary only for the purpose of performing official duties under  
129 sections 2 to 11, inclusive, of this act and shall not be disclosed to any  
130 person other than a representative of the federal government, the state

131 or any political subdivision of the state, acting in an official capacity  
132 and duly authorized to obtain such information, or to a person  
133 authorized by court order.

134 Sec. 3. (NEW) (a) The following types of notarial act may be  
135 performed electronically: (1) Acknowledgment; (2) jurat; and (3)  
136 signature witnessing.

137 (b) In notarizing an electronic signature, an electronic notary shall  
138 take reasonable steps to ensure that the registered device used to create  
139 the electronic signature is current and has not been revoked or  
140 terminated by its issuing or registering authority.

141 (c) An electronic notarization shall not be performed if the signer of  
142 the electronic document: (1) Is not in the presence of the electronic  
143 notary at the time of notarization; (2) in the notary's judgment, does  
144 not appear to be aware of the significance of signing; or (3) in the  
145 notary's judgment, is being threatened, intimidated or otherwise  
146 pressured into acting against the signer's own free will.

147 (d) In performing an electronic notarial act, an electronic notary  
148 shall follow the same rules as set down in sections 3-94a to 3-95,  
149 inclusive, of the general statutes, as amended by this act, for  
150 nonelectronic notarial acts in regard to: (1) Disqualifications; (2) refusal  
151 to notarize; (3) impartiality; (4) false certificates; (5) improper  
152 documents; (6) intent to deceive; (7) testimonials; and (8) unauthorized  
153 practice of law.

154 Sec. 4. (NEW) For performing electronic acts, the maximum fees that  
155 an electronic notary may charge are: (1) For acknowledgments, \_\_\_\_  
156 dollars per signature; (2) for jurats, \_\_\_\_ dollars per signature; and (3)  
157 for signature witnessings, \_\_\_\_ dollars per signature.

158 Sec. 5. (NEW) (a) If a notary has registered to perform electronic  
159 notarial acts, the notary shall keep, maintain, protect as a public record  
160 and provide for lawful inspection a chronological official electronic

161 journal of notarial acts. A notary shall keep no more than one active  
162 journal at the same time, except that a backup record of an electronic  
163 journal may be kept to offset loss of the original journal by theft,  
164 vandalism, accident, or natural disaster.

165 (b) For every electronic notarial act, the notary shall record in the  
166 journal at the time of notarization at least the following:

167 (1) The date and time of day of the notarial act;

168 (2) The type of notarial act;

169 (3) The type or title or a description of the document or proceeding;

170 (4) The signature, printed name and address of each principal;

171 (5) The evidence of identity of each principal, in the form of either:

172 (A) A statement that the person is "personally known" to the notary;

173 (B) a description of the identification document, its issuing agency, its  
174 serial or identification number and its date of issuance or expiration; or

175 (C) the signature, name and address of each credible witness swearing  
176 or affirming to the person's identity and, for credible witnesses who  
177 are not personally known to the notary, a description of identification  
178 documents relied on by the notary;

179 (6) For each principal and credible witness, any recognized  
180 biometric identifier, if the journal has the capability of capturing,  
181 storing and retrieving the identifier;

182 (7) The fee, if any, charged for the notarial act;

183 (8) The address where the notarization was performed if not the  
184 notary's business address; and

185 (9) The name of any authority issuing or registering the electronic  
186 device used to create the electronic signature that was notarized, the  
187 source of this authority's license, if any, and the expiration date of the  
188 device.

189 (c) A notary shall retain as an official record an electronic copy of  
190 each copy certified by the notary. A notary shall not record a Social  
191 Security or credit card number in the journal. A notary shall record in  
192 the journal the circumstances for refusing to perform or complete a  
193 notarial act.

194 (d) At the time of notarization, the notary's journal shall be signed,  
195 as applicable, by each: (1) Principal; (2) credible witness swearing or  
196 affirming to the identity of a principal; and (3) witness to a signature  
197 by mark or to a signing by the notary on behalf of a person physically  
198 unable to sign.

199 (e) In the notary's presence, any person may inspect an entry in the  
200 official journal of notarial acts, if: (1) The person's identity is personally  
201 known to the notary or proven through satisfactory evidence; (2) the  
202 person affixes a signature in the journal in a separate entry; (3) the  
203 person specifies the month, year, type of document and name of the  
204 principal for the notarial act or acts sought; and (4) the person is shown  
205 only the entry or entries specified. The notary may withhold or mask  
206 from any person the addresses, telephone numbers and identification  
207 card numbers of principals and witnesses recorded in the journal,  
208 except when the journal or any entry is examined by a law  
209 enforcement officer in the course of an official investigation, or  
210 subpoenaed by court order or surrendered at the direction of the  
211 secretary. Upon complying with a request under this subsection, the  
212 notary shall provide a copy of a specified entry or entries in the journal  
213 at a cost of not more than \_\_\_\_ dollars per copy, in which case other  
214 entries on the same page shall be masked. If a certified copy of an  
215 entry in a bound book is requested, the cost shall be \_\_\_\_ dollars.

216 (f) A notary shall safeguard the journal and all other notarial records  
217 as valuable public documents and surrender or destroy them only by  
218 court order or at the direction of the secretary. When not in use, the  
219 journal shall be kept in a locked and secure area under the exclusive  
220 control of the notary and shall not be used by any other notary nor

221 surrendered to an employer upon termination of employment. If the  
222 journal is stolen, lost, destroyed, damaged or otherwise rendered  
223 unusable or unreadable as a record of notarial acts, the notary, within  
224 ten days and after informing the appropriate law enforcement agency  
225 in the case of theft, shall notify the secretary by any means providing a  
226 tangible receipt or acknowledgment, including certified mail and  
227 electronic transmission, and also provide a copy or number of any  
228 pertinent police report.

229 (g) Upon the resignation, revocation or expiration of a regular  
230 commission, or death of the notary, the journal and notarial records  
231 shall be delivered to the office of the Secretary of the State by any  
232 means providing a tangible receipt or acknowledgment, including  
233 certified mail and electronic transmission, allowing that an electronic  
234 journal may be delivered on disk or printed out on paper or  
235 transmitted electronically if conforming to transmission requirements  
236 of the office of the Secretary of the State.

237 Sec. 6. (NEW) (a) If an electronic notary uses an electronic signature  
238 technology that cannot prevent or reveal later unauthorized  
239 manipulation of, or tampering with, a notarized electronic document,  
240 the notary shall retain a copy of each notarized electronic document in  
241 the notary's electronic journal of notarial acts.

242 (b) Any copies of notarized electronic documents kept in an  
243 electronic journal of notarial acts shall: (1) Not be subject to public  
244 inspection or copying; (2) be inspected, copied or released only upon  
245 court order; and (3) be destroyed by the notary three years after the  
246 date of notarization, unless inquiries about the document indicate that  
247 further preservation of the record may be in the public interest.

248 Sec. 7. (NEW) In performing an electronic notarial act, an electronic  
249 notary shall append to the electronic document:

250 (1) The official electronic signature of the notary;

251 (2) The notary's electronic seal, which comprises: (A) The notary's  
252 name exactly as stated on the commission; (B) the commission serial  
253 number; (C) the words "Notary Public"; (D) the words "State of  
254 Connecticut"; (E) the expiration date of the commission; (F) the  
255 expiration date of the notary's digital certificate or electronic signature;  
256 (G) the notary's e-mail address; and (H) the address of the notary's  
257 principal place of work or business; and

258 (3) The completed wording of one of the appropriate certificates for  
259 a: (1) General acknowledgment; (2) jurat; or (3) signature witnessing.

260 Sec. 8. (NEW) (a) On a notarized electronic document transmitted to  
261 another state or nation, electronic evidence of the authenticity of the  
262 official signature and seal of an electronic notary of this state may be  
263 appended to the notarized electronic document in the form of an  
264 electronic certificate of authority signed by the Secretary of the State in  
265 conformance with any current and pertinent international treaties,  
266 agreements and conventions subscribed by the government of the  
267 United States.

268 (b) An electronic certificate of authority evidencing the authenticity  
269 of the official signature and seal of an electronic notary of this state  
270 shall contain substantially the following words:

271 **Certificate of Authority for an Electronic Notarial Act**

272 I, .... (name, title, jurisdiction of commissioning official), certify that  
273 .... (name of electronically capable notary), the person named as holder  
274 of a Notary Public Commission in the electronic certificate appended  
275 to the within electronic document, was indeed registered as an  
276 Electronic Notary Public for the State of Connecticut and authorized to  
277 act as such at the time of the document's electronic notarization.

278 To verify this Certificate of Authority for an Electronic Notarial Act,  
279 I have hereto affixed my electronic signature this .... day of ....., 20...

280 (electronic signature of commissioning official)

281       Sec. 9. (NEW) (a) Not later than five days after the change of an  
282 electronic notary's e-mail address, the notary shall electronically  
283 transmit to the Secretary of the State a notice of the change, signed  
284 with the notary's official electronic signature.

285       (b) If the registration of the device used to create electronic  
286 signatures expires during the electronic notary's term of office, the  
287 notary shall cease performing electronic notarizations until: (1) A new  
288 device is duly issued or registered to the notary; and (2) an  
289 electronically signed notice is sent to the secretary which shall include  
290 the dates of any new registration term, the name of the authority that  
291 issued or registered the device and the source of the authority's license,  
292 if any, and any decrypting instructions, codes or software that allow  
293 the notice to be read.

294       (c) (1) Except as provided in subdivision (2) of this subsection, when  
295 an electronic notary's commission is resigned, revoked or expires, or  
296 when an electronic notary dies, the notary or the notary's duly  
297 authorized representative shall erase, delete or destroy the coding,  
298 disk, certificate, card, software or program that enables electronic  
299 affixation of the notary's official electronic signature.

300       (2) A former electronic notary who intends to apply for a new  
301 commission and whose previous commission or application was not  
302 revoked or denied by this state, need not erase, delete or destroy the  
303 coding, disk, certificate, card, software, or program enabling electronic  
304 affixation of the official electronic signature if reappointed not later  
305 than three months after commission expiration, with intent to use the  
306 same coding, disk, certificate, card, software or program to notarize  
307 electronically with the new commission.

308       Sec. 10. (NEW) The liability, sanctions and remedies for the  
309 improper performance of electronic notarial acts are the same as  
310 described and provided in sections 3-94a to 3-95, inclusive, of the  
311 general statutes, as amended by this act, for the improper performance  
312 of nonelectronic notarial acts.

313       Sec. 11. (NEW) (a) The criminal sanctions for impersonating an  
314       electronic notary and for soliciting, coercing or influencing an  
315       electronic notary to commit official misconduct in performing  
316       electronic notarial acts are the same sanctions set forth in sections 3-94a  
317       to 3-95, inclusive, of the general statutes, as amended by this act, in  
318       regard to impersonation and improper influence in performing  
319       nonelectronic notarial acts.

320       (b) Any person who knowingly obtains, conceals, damages or  
321       destroys the certificate, disk, coding, card, program, software or  
322       hardware enabling an electronic notary to affix an official electronic  
323       signature shall be fined not more than one thousand dollars or  
324       imprisoned not more than six months or both.

***Statement of Purpose:***

To authorize and establish procedures for electronic notarizations.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*