



House of Representatives

General Assembly

File No. 699

January Session, 2011

Substitute House Bill No. 6645

House of Representatives, May 3, 2011

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REVISED UNIFORM LAW ON NOTARIAL ACTS.

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

1 Section 1. (NEW) (*Effective October 1, 2011*) Sections 1 to 30,
2 inclusive, of this act may be cited as the "Revised Uniform Law on
3 Notarial Acts".

4 Sec. 2. (NEW) (*Effective October 1, 2011*) As used in sections 1 to 30,
5 inclusive, of this act:

6 (1) "Acknowledgment" means a declaration by an individual before
7 a notarial officer that the individual has signed a record for the
8 purpose stated in the record and, if the record is signed in a
9 representative capacity, that the individual signed the record with
10 proper authority and signed it as the act of the individual or entity
11 identified in the record.

12 (2) "Electronic" means relating to technology having electrical,

13 digital, magnetic, wireless, optical, electromagnetic or similar
14 capabilities.

15 (3) "Electronic signature" means an electronic symbol, sound or
16 process attached to or logically associated with a record and executed
17 or adopted by an individual with the intent to sign the record.

18 (4) "In a representative capacity" means acting as:

19 (A) An authorized officer, agent, partner, trustee or other
20 representative for a person other than an individual;

21 (B) A public officer, personal representative, guardian or other
22 representative, in the capacity stated in a record;

23 (C) An agent or attorney-in-fact for a principal; or

24 (D) An authorized representative of another in any other capacity.

25 (5) "Notarial act" means an act, whether performed with respect to a
26 tangible or electronic record, that a notarial officer may perform under
27 the law of this state. "Notarial act" includes taking an
28 acknowledgment, administering an oath or affirmation, taking a
29 verification on oath or affirmation, witnessing or attesting a signature,
30 certifying or attesting a copy, and noting a protest of a negotiable
31 instrument.

32 (6) "Notarial officer" means a notary public or other individual
33 authorized to perform a notarial act.

34 (7) "Notary public" means an individual appointed to perform a
35 notarial act by the Secretary of the State.

36 (8) "Official stamp" means a physical image affixed to or embossed
37 on a tangible record or an electronic image attached to or logically
38 associated with an electronic record.

39 (9) "Person" means an individual, corporation, business trust,
40 statutory trust, estate, trust, partnership, limited liability company,

41 association, joint venture, public corporation, government or
42 governmental subdivision, agency or instrumentality or any other
43 legal or commercial entity.

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

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

49 (A) To execute or adopt a tangible symbol; or

50 (B) To attach to or logically associate with the record an electronic
51 symbol, sound or process.

52 (12) "Signature" means a tangible symbol or an electronic signature
53 that evidences the signing of a record.

54 (13) "Stamping device" means:

55 (A) A physical device capable of affixing to or embossing on a
56 tangible record an official stamp; or

57 (B) An electronic device or process capable of attaching to or
58 logically associating with an electronic record an official stamp.

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

63 (15) "Verification on oath or affirmation" means a declaration, made
64 by an individual on oath or affirmation before a notarial officer, that a
65 statement in a record is true.

66 Sec. 3. (NEW) (*Effective October 1, 2011*) Sections 1 to 30, inclusive, of
67 this act applies to a notarial act performed on or after October 1, 2011.

68 Sec. 4. (NEW) (*Effective October 1, 2011*) (a) A notarial officer may
69 perform a notarial act authorized by sections 1 to 30, inclusive, of this
70 act or by any law of this state other than a provision of sections 1 to 30,
71 inclusive, of this act.

72 (b) A notarial officer may not perform a notarial act with respect to a
73 record to which the officer or the officer's spouse is a party, or in which
74 either of them has a direct beneficial interest. A notarial act performed
75 in violation of this subsection is voidable.

76 Sec. 5. (NEW) (*Effective October 1, 2011*) (a) A notarial officer who
77 takes an acknowledgment of a record shall determine, from personal
78 knowledge or satisfactory evidence of the identity of the individual,
79 that the individual appearing before the officer and making the
80 acknowledgment has the identity claimed and that the signature on
81 the record is the signature of the individual.

82 (b) A notarial officer who takes a verification of a statement on oath
83 or affirmation shall determine, from personal knowledge or
84 satisfactory evidence of the identity of the individual, that the
85 individual appearing before the officer and making the verification has
86 the identity claimed and that the signature on the statement verified is
87 the signature of the individual.

88 (c) A notarial officer who witnesses or attests to a signature shall
89 determine, from personal knowledge or satisfactory evidence of the
90 identity of the individual, that the individual appearing before the
91 officer and signing the record has the identity claimed.

92 (d) A notarial officer who certifies or attests a copy of a record or an
93 item that was copied shall determine that the copy is a full, true and
94 accurate transcription or reproduction of the record or item.

95 (e) A notarial officer who makes or notes a protest of a negotiable
96 instrument shall determine the matters set forth in subsection (b) of
97 section 42a-3-505 of the general statutes.

98 Sec. 6. (NEW) (*Effective October 1, 2011*) If a notarial act relates to a

99 statement made in or a signature executed on a record, the individual
100 making the statement or executing the signature shall appear
101 personally before the notarial officer.

102 Sec. 7. (NEW) (*Effective October 1, 2011*) (a) A notarial officer has
103 personal knowledge of the identity of an individual appearing before
104 the officer if the individual is personally known to the officer through
105 dealings sufficient to provide reasonable certainty that the individual
106 has the identity claimed.

107 (b) A notarial officer has satisfactory evidence of the identity of an
108 individual appearing before the officer if the officer can identify the
109 individual:

110 (1) By means of:

111 (A) A passport, driver's license, or government issued nondriver
112 identification card, which is current or expired not more than three
113 years before performance of the notarial act; or

114 (B) Another form of government identification issued to an
115 individual, which is current or expired not more than three years
116 before performance of the notarial act, contains the signature or a
117 photograph of the individual, and is satisfactory to the officer; or

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

124 (c) A notarial officer may require an individual to provide
125 additional information or identification credentials necessary to assure
126 the officer of the identity of the individual.

127 Sec. 8. (NEW) (*Effective October 1, 2011*) (a) A notarial officer may
128 refuse to perform a notarial act if the officer is not satisfied that:

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

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

132 (b) A notarial officer may refuse to perform a notarial act unless
133 refusal is prohibited by law other than sections 1 to 30, inclusive, of
134 this act.

135 Sec. 9. (NEW) (*Effective October 1, 2011*) If an individual is physically
136 unable to sign a record, the individual may direct an individual other
137 than the notarial officer to sign the individual's name on the record.
138 The notarial officer shall insert "Signature affixed by (name of other
139 individual) at the direction of (name of individual)" or words of similar
140 import.

141 Sec. 10. (NEW) (*Effective October 1, 2011*) (a) A notarial act may be
142 performed in this state by:

143 (1) A notary public of this state;

144 (2) A judge, clerk or deputy clerk of the superior court or a probate
145 court of this state or a family support magistrate;

146 (3) An individual licensed to practice law in this state;

147 (4) A town clerk;

148 (5) A justice of the peace; or

149 (6) Any other individual authorized to perform the specific act by
150 the law of this state.

151 (b) The signature and title of an individual performing a notarial act
152 in this state are prima facie evidence that the signature is genuine and
153 that the individual holds the designated title.

154 (c) The signature and title of a notarial officer described in
155 subdivisions (1), (2) and (3) of subsection (a) of this section

156 conclusively establish the authority of the officer to perform the
157 notarial act.

158 Sec. 11. (NEW) (*Effective October 1, 2011*) (a) A notarial act performed
159 in another state has the same effect under the law of this state as if
160 performed by a notarial officer of this state, if the act performed in that
161 state is performed by:

162 (1) A notary public of that state;

163 (2) A judge, clerk or deputy clerk of a court of that state; or

164 (3) Any other individual authorized by the law of that state to
165 perform the notarial act.

166 (b) The signature and title of an individual performing a notarial act
167 in another state are prima facie evidence that the signature is genuine
168 and that the individual holds the designated title.

169 (c) The signature and title of a notarial officer described in
170 subdivision (1) or (2) of subsection (a) of this section conclusively
171 establish the authority of the officer to perform the notarial act.

172 Sec. 12. (NEW) (*Effective October 1, 2011*) (a) A notarial act performed
173 under the authority and in the jurisdiction of a federally recognized
174 Indian tribe has the same effect as if performed by a notarial officer of
175 this state, if the act performed in the jurisdiction of the tribe is
176 performed by:

177 (1) A notary public of the tribe;

178 (2) A judge, clerk or deputy clerk of a court of the tribe; or

179 (3) Any other individual authorized by the law of the tribe to
180 perform the notarial act.

181 (b) The signature and title of an individual performing a notarial act
182 under the authority of and in the jurisdiction of a federally recognized
183 Indian tribe are prima facie evidence that the signature is genuine and

184 that the individual holds the designated title.

185 (c) The signature and title of a notarial officer described in
186 subdivision (1) or (2) of subsection (a) of this section conclusively
187 establish the authority of the officer to perform the notarial act.

188 Sec. 13. (NEW) (*Effective October 1, 2011*) (a) A notarial act performed
189 under federal law has the same effect under the law of this state as if
190 performed by a notarial officer of this state, if the act performed under
191 federal law is performed by:

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

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

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

198 (4) Any other individual authorized by federal law to perform the
199 notarial act.

200 (b) The signature and title of an individual acting under federal
201 authority and performing a notarial act are prima facie evidence that
202 the signature is genuine and that the individual holds the designated
203 title.

204 (c) The signature and title of an officer described in subdivision (1),
205 (2) or (3) of subsection (a) of this section conclusively establish the
206 authority of the officer to perform the notarial act.

207 Sec. 14. (NEW) (*Effective October 1, 2011*) (a) In this section, "foreign
208 state" means a government other than the United States, a state or a
209 federally recognized Indian tribe.

210 (b) If a notarial act is performed under authority and in the
211 jurisdiction of a foreign state or constituent unit of the foreign state or
212 is performed under the authority of a multinational or international

213 governmental organization, the act has the same effect under the law
214 of this state as if performed by a notarial officer of this state.

215 (c) If the title of office and indication of authority to perform notarial
216 acts in a foreign state appears in a digest of foreign law or in a list
217 customarily used as a source for that information, the authority of an
218 officer with that title to perform notarial acts is conclusively
219 established.

220 (d) The signature and official stamp of an individual holding an
221 office described in subsection (c) of this section are prima facie
222 evidence that the signature is genuine and the individual holds the
223 designated title.

224 (e) An apostille in the form prescribed by the Hague Convention of
225 October 5, 1961, and issued by a foreign state party to the Convention
226 conclusively establishes that the signature of the notarial officer is
227 genuine and that the officer holds the indicated office.

228 (f) A consular authentication issued by an individual designated by
229 the United States Department of State as a notarizing officer for
230 performing notarial acts overseas and attached to the record with
231 respect to which the notarial act is performed conclusively establishes
232 that the signature of the notarial officer is genuine and that the officer
233 holds the indicated office.

234 Sec. 15. (NEW) (*Effective October 1, 2011*) (a) A notarial act shall be
235 evidenced by a certificate. The certificate shall:

236 (1) Be executed contemporaneously with the performance of the
237 notarial act;

238 (2) Be signed and dated by the notarial officer and, if the notarial
239 officer is a notary public, be signed in the same manner as on file with
240 the Secretary of the State;

241 (3) Identify the jurisdiction in which the notarial act is performed;

242 (4) Contain the title of office of the notarial officer; and

243 (5) If the notarial officer is a notary public, indicate the date of
244 expiration, if any, of the officer's appointment.

245 (b) If a notarial act regarding a tangible record is performed by a
246 notary public, an official stamp shall be affixed to or embossed on the
247 certificate. If a notarial act is performed regarding a tangible record by
248 a notarial officer other than a notary public and the certificate contains
249 the information specified in subdivisions (2), (3) and (4) of subsection
250 (a) of this section, an official stamp may be affixed to or embossed on
251 the certificate. If a notarial act regarding an electronic record is
252 performed by a notarial officer and the certificate contains the
253 information specified in subdivisions (2), (3) and (4) of subsection (a) of
254 this section, an official stamp may be attached to or logically associated
255 with the certificate.

256 (c) A certificate of a notarial act is sufficient if it meets the
257 requirements of subsections (a) and (b) of this section and:

258 (1) Is in a short form set forth in section 16 of this act;

259 (2) Is in a form otherwise permitted by the law of this state;

260 (3) Is in a form permitted by the law applicable in the jurisdiction in
261 which the notarial act was performed; or

262 (4) Sets forth the actions of the notarial officer and the actions are
263 sufficient to meet the requirements of the notarial act as provided in
264 sections 5, 6 and 7 of this act or the law of this state other than sections
265 1 to 30, inclusive, of this act.

266 (d) By executing a certificate of a notarial act, a notarial officer
267 certifies that the officer has complied with the requirements and made
268 the determinations specified in sections 4, 5 and 6 of this act.

269 (e) A notarial officer may not affix the officer's signature to, or
270 logically associate it with, a certificate until the notarial act has been

271 performed.

272 (f) If a notarial act is performed regarding a tangible record, a
273 certificate shall be part of, or securely attached to, the record. If a
274 notarial act is performed regarding an electronic record, the certificate
275 shall be affixed to, or logically associated with, the electronic record. If
276 the Secretary of the State has established standards pursuant to section
277 26 of this act for attaching, affixing or logically associating the
278 certificate, the process shall conform to the standards.

279 Sec. 16. (NEW) (Effective October 1, 2011) The following short form
280 certificates of notarial acts are sufficient for the purposes indicated, if
281 completed with the information required by subsections (a) and (b) of
282 section 15 of this act:

283 (1) For an acknowledgment in an individual capacity:

T1 State of _____

T2 County of _____

T3 This record was acknowledged before me on ____ by _____

T4 _____ Date Name(s)

T5 _____

T6 Signature of notarial officer

T7 Stamp

T8 _____

T9 Title of office

T10 My appointment expires: _____

284 (2) For an acknowledgment in a representative capacity:

T11 State of _____

T12 County of _____

T13 This record was acknowledged before me on ____ by _____

T14 _____ Date _____ Name(s) _____

T15 as (type of authority, such as officer or trustee) of (name of party on
T16 behalf of whom record was executed).

T17 _____

T18 Signature of notarial officer

T19 Stamp

T20 _____

T21 Title of office

T22 My appointment expires: _____

285 (3) For a verification on oath or affirmation:

T23 State of _____

T24 County of _____

T25 Signed and sworn to (or affirmed) before me on ____ by _____

T26 _____ Date _____ Name(s) _____

T27 _____

T28 Signature of notarial officer

T29 Stamp

T30 _____

T31 Title of office

T32 My appointment expires: _____

286 (4) For witnessing or attesting a signature:

T33 State of _____

T34 County of _____

T35 Signed (or attested) before me on ____ by _____

T36 _____ Date Name(s)

T37 _____

T38 Signature of notarial officer

T39 Stamp

T40 _____

T41 Title of office

T42 My appointment expires: _____

287 (5) For certifying a copy of a record:

T43 State of _____

T44 County of _____

T45 I certify that this is a true and correct copy of a record in the

T46 possession

T47 of _____.

T48 Dated _____

T49 _____

T50 Signature of notarial officer

T51 Stamp

T52 _____

T53 Title of office

T54 My appointment expires: _____

288 Sec. 17. (NEW) (*Effective October 1, 2011*) The official stamp of a
289 notary public shall:

290 (1) Include the notary public's name, jurisdiction, appointment
291 expiration date and other information required by the Secretary of the
292 State; and

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

295 Sec. 18. (NEW) (*Effective October 1, 2011*) (a) A notary public is
296 responsible for the security of the notary public's stamping device and
297 may not allow another individual to use the device to perform a
298 notarial act. On resignation from, or the revocation or expiration of, the
299 notary public's appointment, or on the expiration of the date set forth
300 in the stamping device, if any, the notary public shall disable the
301 stamping device by destroying, defacing, damaging, erasing or
302 securing it against use in a manner that renders it unusable. On the
303 death or adjudication of incompetency of a notary public, the notary
304 public's personal representative or guardian or any other person
305 knowingly in possession of the stamping device shall render it
306 unusable by destroying, defacing, damaging, erasing or securing it
307 against use in a manner that renders it unusable.

308 (b) If a notary public's stamping device is lost or stolen, the notary
309 public or the notary public's personal representative or guardian shall
310 notify promptly the Secretary of the State on discovering that the
311 device is lost or stolen.

312 Sec. 19. (NEW) (*Effective October 1, 2011*) (a) A notary public may
313 select one or more tamper-evident technologies to perform notarial
314 acts with respect to electronic records. A person may not require a
315 notary public to perform a notarial act with respect to an electronic
316 record with a technology that the notary public has not selected.

317 (b) Before a notary public performs the notary public's initial
318 notarial act with respect to an electronic record, a notary public shall
319 notify the Secretary of the State that the notary public will be
320 performing notarial acts with respect to electronic records and identify
321 the technology the notary public intends to use. If the Secretary of the
322 State has established standards for approval of technology pursuant to
323 section 26 of this act, the technology shall conform to the standards. If
324 the technology conforms to the standards, the Secretary of the State
325 shall approve the use of the technology.

326 Sec. 20. (NEW) (*Effective October 1, 2011*) (a) An individual qualified
327 under subsection (b) of this section may apply to the Secretary of the
328 State for an appointment as a notary public. The applicant shall
329 comply with and provide the information required by regulations
330 adopted by the Secretary of the State and pay any application fee.

331 (b) An applicant for an appointment as a notary public shall:

332 (1) Be at least eighteen years of age;

333 (2) Be a citizen or permanent legal resident of the United States;

334 (3) Be a resident of or have a place of employment or practice in this
335 state;

336 (4) Be able to read and write English;

337 (5) Not be disqualified to receive an appointment under section 22
338 of this act; and

339 (6) Have passed the examination required under subsection (a) of
340 section 21 of this act.

341 (c) Before issuance of an appointment as a notary public, an
342 applicant for the appointment shall execute an oath of office and
343 submit it to the Secretary of the State.

344 (d) On compliance with this section, the Secretary of the State shall
345 issue an appointment as a notary public to an applicant for a term of
346 five years.

347 (e) An appointment to act as a notary public authorizes the notary
348 public to perform notarial acts. The appointment does not provide the
349 notary public any immunity or benefit conferred by the law of this
350 state on public officials or employees.

351 Sec. 21. (NEW) (*Effective October 1, 2011*) (a) An applicant for an
352 appointment as a notary public who does not hold a commission in
353 this state shall pass an examination administered by the Secretary of

354 the State. The examination shall be based on the course of study
355 described in subsection (b) of this section.

356 (b) The Secretary of the State shall offer regularly a course of study
357 to applicants who do not hold appointments as notaries public in this
358 state. The course shall cover the laws, regulations, procedures and
359 ethics relevant to notarial acts.

360 Sec. 22. (NEW) (*Effective October 1, 2011*) (a) The Secretary of the
361 State may deny, refuse to renew, revoke, suspend or impose a
362 condition on an appointment as notary public for any act or omission
363 that demonstrates the individual lacks the honesty, integrity,
364 competence or reliability to act as a notary public, including:

365 (1) Failure to comply with any provision of sections 1 to 30,
366 inclusive, of this act;

367 (2) A fraudulent, dishonest, or deceitful misstatement or omission in
368 the application for an appointment as a notary public submitted to the
369 Secretary of the State;

370 (3) A conviction of the applicant or notary public of any felony or a
371 crime involving fraud, dishonesty or deceit;

372 (4) A finding against, or admission of liability by, the applicant or
373 notary public in any legal proceeding or disciplinary action based on
374 the applicant's or notary public's fraud, dishonesty or deceit;

375 (5) Failure by the notary public to discharge any duty required of a
376 notary public, whether by any provision of sections 1 to 30, inclusive,
377 of this act, regulations of the Secretary of the State or any federal or
378 state law;

379 (6) Use of false or misleading advertising or representation by the
380 notary public representing that the notary has a duty, right or privilege
381 that the notary does not have;

382 (7) Violation by the notary public of a regulation of the Secretary of

383 the State regarding a notary public; or

384 (8) Denial, refusal to renew, revocation, suspension or conditioning
385 of a notary public appointment or commission in another state.

386 (b) If the Secretary of the State denies, refuses to renew, revokes,
387 suspends or imposes conditions on an appointment as a notary public,
388 the applicant or notary public is entitled to timely notice and hearing
389 in accordance with chapter 54 of the general statutes.

390 (c) The authority of the Secretary of the State to deny, refuse to
391 renew, revoke, suspend or impose conditions on an appointment as a
392 notary public does not prevent a person from seeking and obtaining
393 other criminal or civil remedies provided by law.

394 Sec. 23. (NEW) (*Effective October 1, 2011*) The Secretary of the State
395 shall maintain an electronic database of notaries public:

396 (1) Through which a person may verify the authority of a notary
397 public to perform notarial acts; and

398 (2) Which indicates whether a notary public has notified the
399 Secretary of the State that the notary public will be performing notarial
400 acts on electronic records.

401 Sec. 24. (NEW) (*Effective October 1, 2011*) (a) An appointment as a
402 notary public does not authorize an individual to:

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

405 (2) Act as an immigration consultant or an expert on immigration
406 matters;

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

410 (4) Receive compensation for performing any of the activities listed

411 in subdivisions (1) to (3), inclusive, of this subsection.

412 (b) A notary public may not engage in false or deceptive
413 advertising.

414 (c) A notary public, other than an attorney licensed to practice law
415 in this state, may not use the term "notario" or "notario publico".

416 (d) A notary public, other than an attorney licensed to practice law
417 in this state, may not advertise or represent that the notary public may
418 assist persons in drafting legal records, give legal advice or otherwise
419 practice law. If a notary public who is not an attorney licensed to
420 practice law in this state in any manner advertises or represents that
421 the notary public offers notarial services, whether orally or in a record,
422 including broadcast media, print media and the Internet, the notary
423 public shall include the following statement, or an alternate statement
424 authorized or required by the Secretary of the State, in the
425 advertisement or representation, prominently and in each language
426 used in the advertisement or representation: "I am not an attorney
427 licensed to practice law in this state. I am not allowed to draft legal
428 records, give advice on legal matters, including immigration, or charge
429 a fee for those activities". If the form of advertisement or
430 representation is not broadcast media, print media or the Internet and
431 does not permit inclusion of the statement required by this subsection
432 because of size, the statement shall be displayed prominently or
433 provided at the place of performance of the notarial act before the
434 notarial act is performed.

435 (e) Except as otherwise allowed by law, a notary public may not
436 withhold access to or possession of an original record provided by a
437 person that seeks performance of a notarial act by the notary public.

438 Sec. 25. (NEW) (*Effective October 1, 2011*) Except as otherwise
439 provided in subsection (b) of section 4 of this act, the failure of a
440 notarial officer to perform a duty or meet a requirement specified in
441 sections 1 to 30, inclusive, of this act does not invalidate a notarial act
442 performed by the notarial officer. The validity of a notarial act under

443 sections 1 to 30, inclusive, of this act does not prevent an aggrieved
444 person from seeking to invalidate the record or transaction that is the
445 subject of the notarial act or from seeking other remedies based on the
446 law of this state other than any provision in sections 1 to 30, inclusive,
447 of this act or the law of the United States. This section does not validate
448 a purported notarial act performed by an individual who does not
449 have the authority to perform notarial acts.

450 Sec. 26. (NEW) (*Effective October 1, 2011*) (a) The Secretary of the
451 State may adopt regulations, in accordance with chapter 54 of the
452 general statutes, to implement the provisions of sections 1 to 30,
453 inclusive, of this act. Regulations adopted regarding the performance
454 of notarial acts with respect to electronic records may not require, or
455 accord greater legal status or effect to, the implementation or
456 application of a specific technology or technical specification. The
457 regulations may:

458 (1) Prescribe the manner of performing notarial acts regarding
459 tangible and electronic records;

460 (2) Include provisions to ensure that any change to or tampering
461 with a record bearing a certificate of a notarial act is self-evident;

462 (3) Include provisions to ensure integrity in the creation, transmittal,
463 storage or authentication of electronic records or signatures;

464 (4) Prescribe the process of granting, renewing, conditioning,
465 denying, suspending or revoking a notary public appointment and
466 assuring the trustworthiness of an individual holding an appointment
467 as notary public;

468 (5) Include provisions to prevent fraud or mistake in the
469 performance of notarial acts; and

470 (6) Provide for the administration of the examination under
471 subsection (a) of section 21 of this act and the course of study under
472 subsection (b) of section 21 of this act.

473 (b) In adopting, amending or repealing regulations about notarial
474 acts with respect to electronic records, the Secretary of the State shall
475 consider, so far as is consistent with sections 1 to 30, inclusive, of this
476 act:

477 (1) The most recent standards regarding electronic records
478 promulgated by national bodies, such as the National Association of
479 Secretaries of State;

480 (2) Standards, practices and customs of other jurisdictions that
481 substantially enact the provisions of sections 1 to 30, inclusive, of this
482 act; and

483 (3) The views of governmental officials and entities and other
484 interested persons.

485 Sec. 27. (NEW) (*Effective October 1, 2011*) An appointment as a notary
486 public in effect on October 1, 2011, continues until its date of
487 expiration. A notary public who applies to renew an appointment as a
488 notary public on or after October 1, 2011, is subject to and shall comply
489 with the provisions of sections 1 to 30, inclusive, of this act. A notary
490 public, in performing notarial acts after October 1, 2011, shall comply
491 with the provisions of sections 1 to 30, inclusive, of this act.

492 Sec. 28. (NEW) (*Effective October 1, 2011*) The provisions of sections 1
493 to 30, inclusive, of this act do not affect the validity or effect of a
494 notarial act performed before October 1, 2011.

495 Sec. 29. (NEW) (*Effective October 1, 2011*) In applying and construing
496 the provisions of sections 1 to 30, inclusive, of this act, consideration
497 shall be given to the need to promote uniformity of the law with
498 respect to its subject matter among states that enact it.

499 Sec. 30. (NEW) (*Effective October 1, 2011*) Sections 1 to 29, inclusive,
500 of this act modify, limit, and supersede the Electronic Signatures in
501 Global and National Commerce Act, 15 USC 7001 et seq., but do not
502 modify, limit, or supersede Section 101(c) of that act, 15 USC 7001(c), or
503 authorize electronic delivery of any of the notices described in Section

504 103(b) of that act, 15 USC 7003(b).

505 Sec. 31. Section 3-94b of the general statutes is repealed and the
506 following is substituted in lieu thereof (*Effective October 1, 2011*):

507 [(a) Except as provided in subsection (c) of this section, the Secretary
508 of the State may appoint as a notary public any qualified person who
509 submits an application in accordance with this section.

510 (b) In order to qualify for appointment as a notary public, a person
511 shall:

512 (1) Be eighteen years of age or older at the time of application;

513 (2) (A) Be a resident of the state of Connecticut at the time of
514 application and appointment, or (B) have one's principal place of
515 business in the state at the time of application and appointment;

516 (3) Pass a written examination approved or administered by the
517 Secretary;

518 (4) Submit an application, on a form prescribed and provided by the
519 Secretary, which the applicant shall complete in the applicant's
520 handwriting without misstatement or omission of fact. The application
521 shall be accompanied by (A) a nonrefundable application fee of one
522 hundred twenty dollars, and (B) the recommendation of an individual
523 who has personally known the applicant for at least one year and is
524 not legally related to the applicant.]

525 [(c)] (a) The Secretary may deny an application submitted under
526 section 20 of this act based on:

527 (1) The applicant's conviction of a felony or a crime involving
528 dishonesty or moral turpitude;

529 (2) Revocation, suspension or restriction of a notary public
530 appointment or professional license issued to the applicant by this
531 state or any other state; or

532 (3) The applicant's official misconduct, whether or not any
533 disciplinary action has resulted.

534 [(d)] (b) Upon approval of an application for appointment as a
535 notary public, the Secretary shall cause a certificate of appointment
536 bearing a facsimile of the Secretary's signature and countersigned by
537 the Secretary's executive assistant or an employee designated by the
538 Secretary to be issued to such appointee.

539 [(e)] (c) A notary public may obtain a replacement certificate of
540 appointment by filing a written request with the Secretary,
541 accompanied by a nonrefundable fee of five dollars.

542 Sec. 32. Sections 1-28 to 1-41, inclusive, 1-57 to 1-65, inclusive, 3-94a,
543 3-94d, 3-94h to 3-94k, inclusive, and 3-94m of the general statutes are
544 repealed. (*Effective October 1, 2011*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section
Sec. 6	<i>October 1, 2011</i>	New section
Sec. 7	<i>October 1, 2011</i>	New section
Sec. 8	<i>October 1, 2011</i>	New section
Sec. 9	<i>October 1, 2011</i>	New section
Sec. 10	<i>October 1, 2011</i>	New section
Sec. 11	<i>October 1, 2011</i>	New section
Sec. 12	<i>October 1, 2011</i>	New section
Sec. 13	<i>October 1, 2011</i>	New section
Sec. 14	<i>October 1, 2011</i>	New section
Sec. 15	<i>October 1, 2011</i>	New section
Sec. 16	<i>October 1, 2011</i>	New section
Sec. 17	<i>October 1, 2011</i>	New section
Sec. 18	<i>October 1, 2011</i>	New section
Sec. 19	<i>October 1, 2011</i>	New section
Sec. 20	<i>October 1, 2011</i>	New section

Sec. 21	October 1, 2011	New section
Sec. 22	October 1, 2011	New section
Sec. 23	October 1, 2011	New section
Sec. 24	October 1, 2011	New section
Sec. 25	October 1, 2011	New section
Sec. 26	October 1, 2011	New section
Sec. 27	October 1, 2011	New section
Sec. 28	October 1, 2011	New section
Sec. 29	October 1, 2011	New section
Sec. 30	October 1, 2011	New section
Sec. 31	October 1, 2011	3-94b
Sec. 32	October 1, 2011	Repealer section

Statement of Legislative Commissioners:

In: Sec. 20(b)(6), the reference to section 22 was changed to section 21 for accuracy; Sec. 24(c), the terms "suspend" and "revoke" were interchanged for consistency with Subsec. (b); Sec. 24(a)(4), "subdivisions (1) to (3), inclusive, of" was inserted for accuracy; Sec. 24(d), "it" was changed to "the statement" for accuracy; and throughout the bill, commas were deleted for proper form.

JUD *Joint Favorable Subst.-LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Secretary of the State	GF - Cost	180,000	30,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	7,128	7,128

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes additional requirements to the Secretary of the State (SOTS) regarding notaries and results in a cost of approximately \$187,128 in FY 12 and \$37,128 in FY 13. These costs include \$100,000 for SOTS to modify the current notary database and \$50,000 for a consultant to provide expertise with the writing of regulations concerning notaries. In addition, the bill requires SOTS to regularly provide a notary course. It is expected that SOTS will require an additional part-time staff member (\$30,000 for salary and \$7,128 for fringe benefits) to carry out this provision.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

OLR Bill Analysis

HB 6645

AN ACT CONCERNING THE REVISED UNIFORM LAW ON NOTARIAL ACTS.

SUMMARY:

This bill adopts the Revised Uniform Law on Notarial Acts (RULONA). It repeals the Uniform Acknowledgement Act, the Uniform Recognition of Acknowledgments Act, and certain other statutory provisions concerning notaries public (people appointed by the secretary of the state to perform notarial acts).

Under the bill, a notarial act is one that a notarial officer (a notary public or other individual authorized to perform such acts) may perform under state law, including 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.

The bill provides for the recognition of notarial acts, under specified procedures, that are performed both within and outside the state. It prescribes requirements for different types of notarial acts as well as the certificates that must be executed along with such acts.

Like current law, the bill requires a notarial officer to have personal knowledge or satisfactory evidence of the identity of someone appearing before him or her for certain notarial acts. The bill relaxes requirements for establishing satisfactory evidence of someone's identity.

The bill requires notaries to use a stamp, and sets requirements for the stamp and stamping device. It makes changes to required qualifications to become a notary, including requiring notaries to be

U.S. citizens or legal permanent residents.

The bill expands the grounds for the secretary of the state to deny, suspend, or otherwise limit a notary's appointment. It also requires non-attorney notaries to state in their advertisements that they are not authorized to give legal advice.

Unlike current law, the bill specifies that it applies to notarial acts whether they are performed with respect to a tangible or electronic record. It requires notaries who wish to perform notarial acts with respect to electronic records to notify the secretary of the state regarding the technology the notary will use.

The bill authorizes the secretary of the state to adopt implementing regulations, and provides that any regulations she adopts regarding the performance of notarial acts for electronic records must be technology-neutral.

EFFECTIVE DATE: October 1, 2011, and applicable to notarial acts performed on or after that date.

§ 2 — DEFINITIONS

In addition to other defined terms, the following definitions apply in the bill.

A record is information that is (1) inscribed on a tangible medium or (2) stored in an electronic or other medium and can be retrieved in perceivable form.

The bill defines sign as to present intent to authenticate or adopt a record to (1) execute or adopt a tangible symbol or (2) attach to or logically associate an electronic symbol, sound, or process with the record. A signature is a tangible symbol or electronic signature that is evidence of the record's signing. An electronic signature is an electronic symbol, sound, or process attached to or logically associated with a record that is executed or adopted by someone with the intent to sign the record. Electronic means relating to technology that has

electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Under the bill, someone acts in a representative capacity when acting as:

1. an authorized officer, agent, partner, trustee, or other representative for another individual or entity;
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.

§ 4 — AUTHORITY TO PERFORM NOTARIAL ACTS; LIMITS FOR ACTS INVOLVING CONFLICT OF INTEREST

The bill permits a notarial officer to perform notarial acts authorized by the bill or other state law. In addition to those acts specified in the bill, existing law authorizes notaries public to take depositions (CGS § 52-148c) and issue subpoenas for depositions (CGS §§ 52-148e, -155).

The bill prohibits a notarial officer from performing a notarial act with respect to a record (1) to which the officer or the officer's spouse is a party or (2) in which either of them has a direct beneficial interest. The bill specifies that such notarial acts are voidable. Existing law, unchanged by the bill, already disqualifies a notary public from performing a notarial act if the notary is a signatory of the document that is to be notarized (CGS § 3-94g).

§§ 5, 7 — REQUIREMENTS FOR CERTAIN NOTARIAL ACTS AND IDENTIFICATION OF INDIVIDUAL

Acknowledgments, Verifications on Oath or Affirmation, and Witnessing or Attesting a Signature

Current law defines an "acknowledgment" as a notarial act in which a notary public certifies that a signatory, whose identity is personally known to the notary public or proven on the basis of satisfactory

evidence, has admitted, in the notary's presence, to having voluntarily signed a document for its stated purpose. The bill's definition of acknowledgment does not include all of these elements, but other provisions of the bill incorporate the same general standard for the notary's personal knowledge or satisfactory evidence of the person appearing before him or her (see below). It defines an acknowledgment as a declaration by someone before a notarial officer (1) that the individual has signed a record for the purpose stated in it and (2) 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. (Under both the bill and current law, the actual signing of the record can take place before the acknowledgment and need not be done in the notarial officer's presence.)

A verification on oath or affirmation is a declaration made by someone on oath or affirmation, before a notarial officer, that a statement in a record is true.

Under the bill, a notarial officer who takes an acknowledgment of a record or a verification of a statement on oath or affirmation must determine, from personal knowledge or satisfactory evidence of the individual's identity, that the individual appearing before the officer and making the acknowledgment or verification has the claimed identity and that the signature on the record or statement is that of the individual. A notarial officer who witnesses or attests to a signature must determine, from personal knowledge or satisfactory evidence of the individual's identity, that the individual appearing before the officer and signing the record has the claimed identity. These requirements are similar to those in current law.

Personal Knowledge of Identity. Under the bill, a notarial officer has personal knowledge of the identity of someone appearing before him or her if the individual is personally known to the officer through dealings that are sufficient to make the officer reasonably certain that the individual has the claimed identity. Current law defines personal

knowledge of identity as familiarity with someone resulting from interaction with that individual over a period of time that is sufficient to eliminate any reasonable doubt that the individual has the claimed identity.

Satisfactory Evidence of Identity. The bill, like current law, provides that a notarial officer has satisfactory evidence of the identity of someone appearing before him or her if the officer can identify the individual through certain documents or an oath or affirmation of a credible third party. For such evidence to be derived from documents, the bill permits a:

1. passport,
2. driver's license or government-issued nondriver identification card, or
3. other form of government identification issued to an individual that contains the person's signature or photograph and that the officer finds satisfactory.

By contrast, current law requires at least two documents as the source of satisfactory evidence of someone's identity (one issued by a federal or state government that contains the individual's signature and either a photograph or physical description, and another issued by an institution, business, state government, or the federal government that contains at least the individual's signature).

Under current law, documents must be current to provide satisfactory evidence of someone's identity. The bill instead allows documents that are current or expired not more than three years before the notarial act is performed.

The bill also allows satisfactory evidence of someone's identity to be established by a verification, on oath or affirmation, of a credible witness who appears in person before the notarial officer and who the officer (1) knows or (2) can identify based on a passport, driver's license, or government issued nondriver identification card which is

current or expired not more than three years before the notarial act is performed. Current law provides that the oath or affirmation must be by a credible person whom the notary public knows, and who knows the individual.

The bill also allows a notarial officer to require someone to provide additional information or identification credentials needed to assure the officer of the person's identity.

Certifying or Attesting a Copy

The bill requires a notarial officer who certifies or attests a copy of a record or an item that was copied to determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

Protesting a Negotiable Instrument

Under the bill, a notarial officer who makes or notes a protest of a negotiable instrument (e.g., a check) must make the findings set forth in existing law for such protests. That is, the protest must identify the instrument and certify either that presentment has been made or, if not, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. A protest may be made upon information that is satisfactory to the notary or other person making it. The protest may also certify that notice of dishonor has been given to some or all parties (CGS § 42a-3-505(b)).

§ 6 — REQUIREMENT FOR PERSONAL APPEARANCE

The bill specifies that if a notarial act relates to a statement made in a record or a signature executed on a record, the individual making the statement or executing the signature must appear in person before the notarial officer.

§ 8 — REFUSAL TO PERFORM NOTARIAL ACT

The bill allows a notarial officer to 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 it or (2) the individual made the signature knowingly and voluntarily.

The bill allows a notarial officer to refuse to perform a notarial act unless other law prohibits that refusal. Existing law, unchanged by the bill, provides that a notary public must not unreasonably refuse to perform notarial acts in lawful transactions for any requesting person who pays the fee required by law (CGS § 3-94f).

§ 9 — SIGNATURE IF INDIVIDUAL IS UNABLE TO SIGN

The bill allows someone who is physically unable to sign a record to direct someone else (other than the notarial officer) to sign the person's name on the record. If this occurs, the notarial officer must insert on the record the phrase "signature affixed by (name of other individual) at the direction of (name of individual)" or similar words.

§ 10 — NOTARIAL ACTS PERFORMED IN STATE

The bill permits notarial acts in Connecticut to be performed by the same people authorized by current law to take acknowledgements (notaries public; judges, court clerks, and deputy clerks; family support magistrates; licensed attorneys; town clerks; or justices of the peace), in addition to anyone authorized by state law to perform the specific act. The bill removes the requirement that a court clerk or deputy clerk have a seal if taking an acknowledgment.

Under the bill, the signature and title of someone performing a notarial act in Connecticut are prima facie evidence that the signature is genuine and that the individual holds the designated title. For notaries public, judges, court clerks, deputy clerks, family support magistrates, and attorneys, their signature and title conclusively establish their authority to perform notarial acts.

§§ 11-13 — NOTARIAL ACTS PERFORMED OUT OF STATE, UNDER FEDERAL LAW, OR UNDER TRIBAL JURISDICTION

Under the bill, notarial acts legally performed in other states (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or other territories or insular possessions that are subject to United States jurisdiction), under federal law, or on federally recognized Indian reservations are valid in Connecticut.

Under current law, any instruments acknowledged out of state by similar categories of people, excluding judges, and specifically including commissioners of deeds, are recognized in Connecticut.

Current law also allows notarial acts outside of the state or under federal law by similar categories of people as authorized by the bill, with the following exception. Current law recognizes out-of-state notarial acts by commissioned military officers or others authorized by the military to perform notarial acts, but only if the acts are performed for members of the military, a merchant seaman, someone else accompanying the military, or any of their dependents. The bill repeals a provision regarding acknowledgments by people in the military before certain officers (CGS § 1-38) but does not repeal another similar provision (CGS § 27-137).

The bill specifies that the signature and title of someone performing a notarial act (1) in another state, (2) while acting under the authority and in the jurisdiction of a federally recognized Indian tribe, or (3) while acting under federal authority, are prima facie evidence that the signature is genuine and that the individual holds the designated title. The signature and title of the following people conclusively establish the person's authority to perform the notarial act:

1. a notary public of another state or a federally recognized Indian tribe;
2. a judge, clerk, or deputy clerk of a federal, tribal, or another state's court;
3. someone in the military or who is working for the military and is authorized by federal law to perform notarial acts; and
4. someone designated by the U.S. Department of State as a notarizing officer for performing notarial acts overseas.

These provisions are generally similar to those in current law, which prescribes more detailed authentication procedures for acknowledgments taken within the United States (including its

territories or insular possessions) but outside of Connecticut.

§ 14 — NOTARIAL ACTS PERFORMED UNDER THE JURISDICTION OF A FOREIGN COUNTRY OR MULTINATIONAL ORGANIZATION

Under the bill, notarial acts have the same effect under Connecticut law as if performed by a notarial officer of this state if performed (1) under the authority and in the jurisdiction of a foreign government or a constituent unit of such a government or (2) under the authority of a multinational or international governmental organization. By contrast, current law provides specified categories of people who may take acknowledgments outside of the United States.

The bill provides that the authority of a foreign officer to perform notarial acts is conclusively established if the office title and indication of such authority appear in a foreign legal digest or in a list customarily used as a source for such information. The signature and official stamp of the office holder are prima facie evidence that the signature is genuine and the individual holds the designated title. Under the bill, an official stamp is (1) a physical image affixed to or embossed on a tangible record or (2) an electronic image attached to or logically associated with an electronic record. These provisions are generally similar to current law.

The bill also provides that either of the following conclusively establishes that the notarial officer's signature is genuine and that he or she holds the indicated office:

1. an apostille (certification) that is (a) in the form prescribed by the 1961 Hague Convention (see BACKGROUND) and (b) issued by a foreign state party to the convention or
2. a consular authentication that is (a) issued by someone the U.S. Department of State designates as a notarizing officer for performing notarial acts overseas and (b) attached to the record with respect to which the notarial act is performed.

§ 15 — CERTIFICATE OF NOTARIAL ACT

The bill follows current law in requiring a notarial act to be evidenced by a certificate.

For notarial acts that notaries public perform regarding tangible records, the bill requires an official stamp to be affixed to or embossed on the certificate (see discussion of §§ 17 and 18 below). Current law allows, but does not require, a notary public to use a seal or stamp. For notarial acts regarding tangible records performed by any other notarial officer, or notarial acts regarding electronic records performed by any notarial officer (including notaries), the bill permits, but does not require, an official stamp if the certificate is signed and dated by the notarial officer, identifies the jurisdiction where the notarial act is performed, and contains the notarial officer's office title.

The bill provides that certificates of notarial acts are sufficient if they meet these requirements and:

1. are in a short form as provided in the bill;
2. are in a form otherwise allowed by state law or the law that applies in the jurisdiction where the notarial act was performed;
or
3. describe the notarial officer's actions, and the actions suffice to meet the requirements for the notarial act as provided by §§ 5, 6, and 7 of the bill (e.g., requirements for personal appearance and the officer's having personal knowledge or satisfactory evidence of the person's identity for certain types of notarial acts, and specified other matters) or other state law.

These requirements are generally similar to current law.

Under the bill, a notarial officer who executes a certificate of a notarial act certifies that he or she complied with the requirements of, and made the findings specified in, §§ 4, 5 and 6 of the bill (e.g., provisions concerning authority to perform notarial acts, personal appearance, and the officer's having personal knowledge or satisfactory evidence of the person's identity for certain types of

notarial acts, and specified other matters).

The bill prohibits a notarial officer from affixing his or her signature to a certificate, or otherwise logically associating the signature with a certificate, until the officer has performed the notarial act.

For notarial acts performed for tangible records, the bill requires the certificate to be part of, or securely attached to, the record. For notarial acts performed for electronic records, the certificate must be affixed to, or logically associated with, the record. This process must conform to any standards the secretary of the state sets by regulation for attaching, affixing, or logically associating the certificate with the record.

§ 16 — SHORT FORM CERTIFICATES

The bill prescribes short form certificates of notarial acts, in the following categories: (1) an acknowledgment in an individual capacity, (2) an acknowledgment in a representative capacity, (3) a verification on oath or affirmation, (4) witnessing or attesting a signature, and (5) certifying a copy of a record.

Current law already provides for short forms for acknowledgments, although there are separate forms for various entities (e.g., corporations or limited liability companies) rather than a single form for acknowledgment in a representative capacity.

§§ 17, 18 — OFFICIAL STAMP AND STAMPING DEVICE FOR NOTARIES PUBLIC

The bill defines a stamping device as (1) a physical device capable of affixing to or embossing an official stamp on a tangible record or (2) an electronic device or process capable of attaching to or logically associating an official stamp with an electronic record. A notary public's official stamp must include the notary's name, jurisdiction, appointment expiration date, and other information that the secretary of the state requires. The stamp must also be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

The bill makes a notary public responsible for the security of his or her stamping device. It prohibits a notary from allowing someone else to use the device to perform a notarial act.

A notary must disable his or her stamping device when resigning from his or her notary appointment, when the appointment is revoked or expires, or on the stamping device's expiration date, if there is one. This is similar to the requirement in current law regarding notarial seals of notaries who resign or whose appointment otherwise ends.

To disable the device, the notary must destroy, deface, damage, erase, or secure it against use in a manner that makes it unusable.

The bill also requires a notary's personal representative or guardian, or anyone else knowingly in possession of the device, to similarly make the stamping device unusable when the notary dies or is adjudged to be incompetent. By law, a notary's personal representative must destroy the notary's official seal, if any, as soon as possible after the notary's death. The representative must also notify the secretary of the state about the notary's death (CGS § 3-94q).

The bill also requires a notary, or his or her personal representative or guardian, to notify promptly the secretary of the state upon discovering that the notary's stamping device is lost or stolen.

§ 19 — SELECTION AND NOTIFICATION OF A NOTARY'S TECHNOLOGY FOR ELECTRONIC RECORDS

The bill allows a notary public to select one or more tamper-evident technologies for performing notarial acts with respect to electronic records. It prohibits anyone from requiring a notary to use any other technology to perform a notarial act with respect to an electronic record.

Under the bill, before a notary public performs his or her first notarial act with respect to an electronic record, the notary must (1) notify the secretary of the state that he or she will be doing so and (2) identify the technology the notary intends to use. The technology must

conform to any standards the secretary of the state establishes by regulation and if the technology does conform, the secretary must approve its use. The bill does not specify whether a notary must notify the secretary of the state if the notary later changes the technology he or she uses for electronic records.

§§ 20, 21, & 31 — COMMISSION, QUALIFICATIONS, AND APPLICATION DENIAL FOR NOTARIES

The bill modifies qualification criteria for someone seeking appointment as a notary public. Unlike current law, the bill requires a notary to be (1) a U.S. citizen or permanent legal resident and (2) able to read and write English. (The current exam is only administered in English.)

Under current law, to be eligible to be a notary public, an applicant must, at the time of application and appointment, (1) be a state resident or (2) have his or her principal place of business in Connecticut. The bill allows a non-resident who has a place of employment or practice in Connecticut to become a notary, even if it is not the person's principal place of business.

The bill requires that the applicant be an adult and that initial applicants and notaries public whose commissions have expired pass an exam. The secretary of the state must regularly offer applicants a course of study covering the laws, regulations, procedures, and ethics that are relevant to notarial acts. The bill specifies that the exam must be based on this course of study.

Current law requires applicants to pay a nonrefundable \$120 application fee. The bill retains the requirement that the applicant pay any required fee, but does not set a fee amount.

The bill, like current law, requires the applicant to complete the application as required by the secretary of the state. But the bill deletes the current requirements that the applicant (1) complete the application in his or her own handwriting without misstatement or omission of fact and (2) include with the application a

recommendation of a non-relative who has personally known the applicant for at least a year.

Under the bill, an applicant must execute an oath of office and submit it to the secretary of the state before the person may be appointed as a notary public. The bill retains the existing requirement that the secretary issue a certificate of appointment to someone after approving the person's application for appointment as a notary public. By law, a notary must record his or her certificate of appointment and oath of office with the town clerk of the municipality (1) where the notary resides or (2) where the notary's principal place of business is located (non-residents must choose the latter) (CGS § 3-94c).

The bill specifies that notaries public are not covered by state laws that confer immunity or benefits on public officials or employees.

It also specifies that a notary's term is five years. Existing law already provides for five-year appointments (CGS § 3-94c). The bill also repeals a provision concerning applications for reappointment.

§ 22 — GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION A NOTARY PUBLIC COMMISSION

The bill allows the secretary of the state to deny, refuse to renew, revoke, suspend, or impose a condition on an appointment as notary public for any act or omission that demonstrates a lack of honesty, integrity, competence, or reliability to act as a notary public. These acts or omissions include:

1. failure to comply with any provision of the bill;
2. a fraudulent, dishonest, or deceitful misstatement or omission in a notary public application;
3. a conviction of any felony or a crime involving fraud, dishonesty, or deceit;
4. a finding in any legal proceeding or disciplinary action that the individual acted fraudulently, dishonestly, or deceitfully;

5. failure to discharge a notarial duty;
6. a notary's representation that he or she has a duty, right, or privilege that he or she lacks;
7. violation of a regulation of the secretary of the state regarding notaries; or
8. another state's denial, refusal to renew, revocation, suspension, or conditioning of a notary public appointment or commission.

The bill also retains current grounds for the secretary of the state to deny an application. These include (1) a conviction for a felony or a crime involving dishonesty or moral turpitude; (2) the revocation, suspension, or restriction of a notary public appointment or professional license issued by any state; or (3) official misconduct (including performing an illegal act, failing to perform a legally required act, or performing a notarial act in a manner found to be negligent, illegal, or against the public interest) even if it did not lead to disciplinary action (CGS § 3-94b).

Under current law, the secretary of the state may reprimand a notary, or revoke or suspend a notary's appointment, due to (1) the notary's official misconduct, (2) any ground for which an application for a notary appointment may be denied, or (3) a violation of any law.

Under the bill, the secretary of the state must provide notice and the opportunity for a hearing before denying, refusing to renew, revoking, suspending, or imposing conditions on someone's appointment as a notary public. Such actions by the secretary do not bar any other civil or criminal action against a notary.

The bill repeals the current requirement that the secretary of the state notify all town clerks in the state within 30 days of the resignation, revocation, or suspension of a notary's certificate of appointment. It also repeals a provision specifying that the termination or lapse of a notary's appointment does not prevent the secretary of the state from investigating the notary's conduct (CGS § 3-94m).

§ 23 — ELECTRONIC DATABASE OF NOTARIES

The bill requires the secretary of the state to maintain an electronic database of notaries public for people to verify a notary's authority to perform notarial acts. The database must also indicate whether a notary has notified the secretary that he or she will be performing notarial acts on electronic records.

§ 24 — PROHIBITED ACTS FOR NOTARIES

Under the bill, appointment as a notary public does not authorize someone to:

1. assist people or entities in the drafting of legal records, give legal advice, or otherwise practice law;
2. act as an immigration consultant or an expert on immigration matters;
3. represent an individual or entity in a judicial or administrative proceeding relating to immigration to the United States, U.S. citizenship, or related matters; or
4. receive payment for performing such activities.

The bill prohibits a notary public from engaging in false or deceptive advertising. It also prohibits a notary public, other than attorneys licensed in the state, from (1) using the term "notario" or "notario publico" (see BACKGROUND) or (2) advertising or representing that the notary public may assist anyone in drafting legal records, give legal advice, or otherwise practice law.

The bill requires notaries, other than Connecticut attorneys, to include in any advertisement or representation the following disclaimer, or an alternate statement that the secretary of the state authorizes or requires: "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." The statement must be prominent and displayed in each language

used in the advertisement or representation. If notaries cannot include this statement, it must be displayed prominently or provided at the place of the notarial act's performance before it is performed.

The bill prohibits a notary public from withholding access to or possession of an original record provided by someone asking the notary to perform a notarial act, except as otherwise allowed by law.

The bill repeals a provision that prohibits notaries from (1) performing any official action with intent to deceive or defraud or (2) using the notary's title or seal in an endorsement or promotional statement for any product, service, contest, or other offering (CGS § 3-94h).

§ 25 — VALIDITY OF NOTARIAL ACTS

The bill provides that a notarial officer's failure to perform a duty or meet a requirement specified in the bill does not invalidate a notarial act performed by the officer, except as specified above regarding records in which the officer or his or her spouse is a party or has a direct beneficial interest. The bill also specifies that the validity of a notarial act under it does not prevent an aggrieved person from seeking (1) to invalidate the record or transaction that is the subject of the notarial act or (2) other remedies based on other state or federal law.

§ 26 — REGULATIONS

The bill authorizes the secretary of the state to adopt implementing regulations. The regulations may:

1. prescribe the manner of performing notarial acts regarding tangible and electronic records;
2. include provisions to ensure that any change to a record bearing a notarial act certificate, or any tampering with such a record, is self-evident;
3. include provisions to ensure integrity in the creation, transmittal,

storage, or authentication of electronic records or signatures;

4. prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary appointment and assuring the trustworthiness of someone holding such an appointment;
5. include provisions to prevent fraud or mistake in the performance of notarial acts; and
6. provide for the administration of the required notary public application exam and course of study.

The bill requires the secretary of the state to consider the following factors, consistent with the bill, when adopting, amending, or repealing regulations about notarial acts with respect to electronic records:

1. the most recent standards regarding electronic records that national bodies (such as the National Association of Secretaries of State) have promulgated;
2. standards, practices, and customs of other jurisdictions that substantially enact RULONA; and
3. the views of governmental officials, government entities, and other interested people and entities.

The bill prohibits regulations regarding the performance of notarial acts with respect to electronic records from requiring, or giving greater legal status or effect to, the implementation or application of a specific technology or technical specification.

§ 27 — NOTARY PUBLIC COMMISSION IN EFFECT

The bill specifies that:

1. an appointment as a notary public that is in effect on October 1, 2011, continues until its expiration date;

2. a notary public who applies to renew his or her notary appointment on or after October 1, 2011, is subject to the bill, and must comply with it; and
3. a notary public must comply with the bill in performing notarial acts after October 1, 2011.

§ 29 — UNIFORMITY OF APPLICATION AND CONSTRUCTION

The bill specifies that in applying and construing its provisions, consideration must be given to the need to promote uniformity of law in the bill's subject matter among states that enact the RULONA. The Uniform Acknowledgement Act and the Uniform Recognition of Acknowledgments Act, which the bill repeal, contain similar provisions on uniformity.

§ 30 — E-SIGN ACT

The bill provides that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act, 15 U.S.C. § 7001 et seq. (see BACKGROUND), except for the provisions of that act concerning consumer disclosures. The bill also specifies that it does not authorize electronic delivery of specified notices that are not subject to E-SIGN, including:

1. court orders or notices, or official court documents required to be executed in connection with court proceedings;
2. utility cancellation or termination notices;
3. notices of eviction, foreclosure, repossession, acceleration, default, or the right to cure, under a rental agreement or a credit agreement secured by someone's primary residence;
4. notices that life insurance, health insurance, or health insurance benefits are being cancelled or terminated, other than with respect to annuities;
5. notices of the recall or material failure of products that could endanger health or safety; and

- documents required in transporting or handling hazardous material, pesticides, or other toxic or dangerous material.

BACKGROUND

Notario Publico

In many Spanish-speaking countries, a “notario publico” is authorized to perform certain services that in the United States are reserved to lawyers (Connecticut Secretary of the State, Notary Public Manual, pg. 13).

1961 Apostille Convention

The Hague Convention of October 5, 1961 Abolishing the Requirement of Legalization for Foreign Public Documents (Apostille Convention) was intended to facilitate the use of public documents that were executed in one state and later used in another. The United States is one of over 90 nations that are members of the treaty.

E-SIGN

The federal Electronic Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C. § 7001 et seq.) validates the use of electronic records and signatures. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to 1-286), which also validates the use of such records and signatures. The two overlap significantly, although they are not identical. For example, E-SIGN applies only to interstate transactions, not intrastate transactions. CUETA provides that it supersedes, modifies, and limits the federal law except for E-SIGN’s consumer disclosure provisions (CGS §§ 1-286).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 45 Nay 0 (04/15/2011)