

1 SENATE BILL 12

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Daniel A. Ivey-Soto and Alonzo Baldonado

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10 AN ACT

11 RELATING TO NOTARIAL ACTS; ENACTING THE REVISED UNIFORM LAW ON
12 NOTARIAL ACTS; REQUIRING RULEMAKING BY THE SECRETARY OF STATE;
13 REPEALING SECTIONS OF THE NMSA 1978 PERTAINING TO NOTARIAL
14 ACTS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
18 cited as the "Revised Uniform Law on Notarial Acts".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Revised Uniform Law on Notarial Acts:

21 A. "acknowledgment" means a declaration by an
22 individual before a notarial officer that the individual has
23 signed a record for the purpose stated in the record and, if
24 the record is signed in a representative capacity, that the
25 individual signed the record with proper authority and signed

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1 it as the act of the individual or entity identified in the
2 record;

3 B. "electronic" means relating to technology having
4 electrical, digital, magnetic, wireless, optical,
5 electromagnetic or similar capabilities;

6 C. "electronic signature" means an electronic
7 symbol, sound or process attached to or logically associated
8 with a record and executed or adopted by an individual with the
9 intent to sign the record;

10 D. "in a representative capacity" means acting as:

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

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

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

19 (4) an authorized representative of another in
20 any other capacity;

21 E. "notarial act" means an act, whether performed
22 with respect to a tangible or electronic record, that a
23 notarial officer may perform under the law of this state. The
24 term includes taking an acknowledgment, administering an oath
25 or affirmation, taking a verification on oath or affirmation,

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1 witnessing or attesting a signature, certifying or attesting a
2 copy and noting a protest of a negotiable instrument;

3 F. "notarial officer" means a notary public or
4 other individual authorized to perform a notarial act;

5 G. "notary public" means an individual commissioned
6 to perform a notarial act by the secretary of state;

7 H. "official stamp" means a physical image affixed
8 to or embossed on a tangible record or an electronic image
9 attached to or logically associated with an electronic record;

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

15 J. "record" means information that is inscribed on
16 a tangible medium or that is stored in an electronic or other
17 medium and is retrievable in perceivable form;

18 K. "sign" means, with present intent to
19 authenticate or adopt a record, to:

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

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

23 L. "signature" means a tangible symbol or an
24 electronic signature that evidences the signing of a record;

25 M. "stamping device" means:

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1 (1) a physical device capable of affixing to
2 or embossing on a tangible record an official stamp; or

3 (2) an electronic device or process capable of
4 attaching to or logically associating with an electronic record
5 an official stamp; and

6 N. "verification on oath or affirmation" means a
7 declaration, made by an individual on oath or affirmation
8 before a notarial officer, that a statement in a record is
9 true.

10 SECTION 3. [NEW MATERIAL] AUTHORITY TO PERFORM NOTARIAL
11 ACT.--

12 A. A notary public or notarial officer shall
13 perform all notarial acts pursuant to the Revised Uniform Law
14 on Notarial Acts or by law of this state other than the Revised
15 Uniform Law on Notarial Acts.

16 B. A notarial officer shall not perform a notarial
17 act with respect to a record to which the officer or the
18 officer's spouse is a party or in which either of them has a
19 direct beneficial interest. A notarial act performed in
20 violation of this subsection is voidable.

21 C. A notarial officer may certify that a tangible
22 copy of an electronic record is an accurate copy of the
23 electronic record.

24 SECTION 4. [NEW MATERIAL] REQUIREMENTS FOR CERTAIN
25 NOTARIAL ACTS.--

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1 A. A notarial officer who takes an acknowledgment
2 of a record shall determine, from personal knowledge or
3 satisfactory evidence of the identity of the individual, that
4 the individual appearing before the officer and making the
5 acknowledgment has the identity claimed and that the signature
6 on the record is the signature of the individual.

7 B. A notarial officer who takes a verification of a
8 statement on oath or affirmation shall determine, from personal
9 knowledge or satisfactory evidence of the identity of the
10 individual, that the individual appearing before the officer
11 and making the verification has the identity claimed and that
12 the signature on the statement verified is the signature of the
13 individual.

14 C. A notarial officer who witnesses or attests to a
15 signature shall determine, from personal knowledge or
16 satisfactory evidence of the identity of the individual, that
17 the individual appearing before the officer and signing the
18 record has the identity claimed.

19 D. A notarial officer who certifies or attests a
20 copy of a record or an item that was copied shall determine
21 that the copy is a full, true and accurate transcription or
22 reproduction of the record or item.

23 E. A notarial officer who makes or notes a protest
24 of a negotiable instrument shall determine the matters set
25 forth in Section 3-505(b) of the federal Uniform Commercial

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2 SECTION 5. [NEW MATERIAL] PERSONAL APPEARANCE REQUIRED.--

3 If a notarial act relates to a statement made in or a signature
4 executed on a record, the individual making the statement or
5 executing the signature shall appear personally before the
6 notarial officer.

7 SECTION 6. [NEW MATERIAL] IDENTIFICATION OF INDIVIDUAL.--

8 A. A notarial officer has personal knowledge of the
9 identity of an individual appearing before the officer if the
10 individual is personally known to the officer through dealings
11 sufficient to provide reasonable certainty that individual has
12 the identity claimed.

13 B. A notarial officer has satisfactory evidence of
14 the identity of an individual appearing before the officer if
15 the officer can identify the individual:

16 (1) by means of:

17 (a) a passport, driver's license or
18 government-issued nondriver identification card, which is
19 current or expired not more than three years before performance
20 of the notarial act; or

21 (b) another form of government
22 identification issued to an individual, which is current or
23 expired not more than three years before performance of the
24 notarial act, contains the signature or a photograph of the
25 individual and is satisfactory to the officer; or

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

7 C. A notarial officer may require an individual to
8 provide additional information or identification credentials
9 necessary to assure the officer of the identity of the
10 individual.

11 SECTION 7. [NEW MATERIAL] AUTHORITY TO REFUSE TO PERFORM
12 NOTARIAL ACTS.--

13 A. A notarial officer may refuse to perform a
14 notarial act if the officer is not satisfied that:

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

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

19 B. A notarial officer may refuse to perform a
20 notarial act unless refusal is prohibited by law other than the
21 Revised Uniform Law on Notarial Acts.

22 C. A notarial officer shall not refuse to perform a
23 notarial act if the refusal would violate other state or
24 federal laws.

25 SECTION 8. [NEW MATERIAL] SIGNATURE IF INDIVIDUAL IS

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1 UNABLE TO SIGN.--If an individual is physically unable to sign
2 a record, the individual may direct an individual other than
3 the notarial officer to sign the individual's name on the
4 record. The notarial officer shall insert "Signature affixed
5 by (name of other individual) at the direction of (name of
6 individual)" or words of similar import.

7 SECTION 9. [NEW MATERIAL] JURISDICTION OVER NOTARIAL ACTS
8 RELATING TO THIS STATE.--

9 A. A notarial act in relation with this state is
10 subject to the Revised Uniform Law on Notarial Acts and other
11 laws of this state.

12 B. The secretary of state shall advise the notaries
13 public or notarial officers of other states when performing
14 notarial acts in relation with this state.

15 C. For the purposes of this section, "in relation
16 with this state" means a notarial act concerning or affecting
17 individuals, property or other matters located within the state
18 or arising from individuals, property or other matters located
19 within the state that are subject to a notarial act.

20 SECTION 10. [NEW MATERIAL] NOTARIAL ACTS IN THIS STATE.--

21 A. A notarial act may be performed in this state
22 by:

- 23 (1) a notary public of this state;
24 (2) a judge of a court of this state;
25 (3) a court clerk of this state while

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1 performing a notarial act within the scope of a court clerk's
2 duties;

3 (4) an individual licensed to practice law in
4 this state; or

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

7 B. The signature and title of an individual
8 performing a notarial act in this state are prima facie
9 evidence that the signature is genuine and that the individual
10 holds the designated title.

11 C. The signature and title of a notarial officer
12 described in Paragraph (1), (2), (3) or (4) of Subsection A of
13 this section conclusively establish the authority of the
14 officer to perform the notarial act.

15 D. The ability of a notarial officer described in
16 Paragraph (2), (3) or (4) of Subsection A of this section to
17 perform notarial acts is conditioned on the notarial officer
18 maintaining an active license to practice law pursuant to the
19 laws of this state.

20 SECTION 11. [NEW MATERIAL] NOTARIAL ACT IN ANOTHER
21 STATE.--

22 A. A notarial act performed in another state has
23 the same effect under the law of this state as if performed by
24 a notarial officer of this state, if the act performed in that
25 state is performed by:

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- 1 (1) a notary public of that state;
2 (2) a judge of that state;
3 (3) a court clerk of that state while
4 performing a notarial act within the scope of the court clerk's
5 duties; or
6 (4) any other individual authorized by the law
7 of that state to perform the notarial act.

8 B. The signature and title of an individual
9 performing a notarial act in another state are prima facie
10 evidence that the signature is genuine and that the individual
11 holds the designated title.

12 C. The signature and title of a notarial officer
13 described in Paragraph (1), (2) or (3) of Subsection A of this
14 section conclusively establish the authority of the officer to
15 perform the notarial act.

16 D. The authority of a notarial officer described in
17 Paragraph (2), (3) or (4) of Subsection A of this section to
18 perform notarial acts is conditioned on the notarial officer
19 maintaining an active license to practice law.

20 SECTION 12. [NEW MATERIAL] NOTARIAL ACT UNDER THE
21 AUTHORITY OF A FEDERALLY RECOGNIZED INDIAN TRIBE.--

22 A. A notarial act performed under the authority and
23 in the jurisdiction of a federally recognized Indian tribe has
24 the same effect as if performed by a notarial officer of this
25 state, if the act performed in the jurisdiction of the tribe is

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1 performed by:

2 (1) a notary public of the tribe;

3 (2) a judge of a court of the tribe;

4 (3) a court clerk of the tribe while

5 performing a notarial act within the scope of a court clerk's
6 duties; or

7 (4) any other individual authorized by the law
8 of the tribe to perform the notarial act.

9 B. The signature and title of an individual
10 performing a notarial act under the authority of and in the
11 jurisdiction of a federally recognized Indian tribe are prima
12 facie evidence that the signature is genuine and that the
13 individual holds the designated title.

14 C. The signature and title of a notarial officer
15 described in Paragraph (1), (2) or (3) of Subsection A of this
16 section conclusively establish the authority of the officer to
17 perform the notarial act.

18 D. The authority of a notarial officer described in
19 Paragraph (2), (3) or (4) of Subsection A of this section to
20 perform notarial acts is conditioned on the notarial officer
21 maintaining an active license to practice law pursuant to
22 tribal law.

23 SECTION 13. [NEW MATERIAL] NOTARIAL ACT UNDER FEDERAL
24 AUTHORITY.--

25 A. A notarial act performed under federal law has

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1 the same effect under the law of this state as if performed by
2 a notarial officer of this state, if the act performed under
3 federal law is performed by:

4 (1) a judge;

5 (2) a court clerk while performing notarial
6 acts required in holding the title of court clerk of a court;

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

10 (4) an individual designated a notarizing
11 officer by the United States department of state for performing
12 notarial acts overseas; or

13 (5) any other individual authorized by federal
14 law to perform the notarial act.

15 B. The signature and title of an individual acting
16 under federal authority and performing a notarial act are prima
17 facie evidence that the signature is genuine and that the
18 individual holds the designated title.

19 C. The signature and title of an officer described
20 in Paragraph (1), (2), (3) or (4) of Subsection A of this
21 section conclusively establish the authority of the officer to
22 perform the notarial act.

23 D. The authority of a notarial officer described in
24 Paragraph (1), (2), (3), (4) or (5) of Subsection A of this
25 section to perform notarial acts is conditioned on the notarial

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1 officer maintaining an active license to practice law pursuant
2 to the laws of this state.

3 SECTION 14. [NEW MATERIAL] FOREIGN NOTARIAL ACTS.--

4 A. As used in this section, "foreign state" means a
5 government other than the United States, a state or a federally
6 recognized Indian tribe.

7 B. If a notarial act is performed under authority
8 and in the jurisdiction of a foreign state or constituent unit
9 of the foreign state or is performed under the authority of a
10 multinational or international governmental organization, the
11 act has the same effect under the law of this state as if
12 performed by a notarial officer of this state.

13 C. If the title of office and indication of
14 authority to perform notarial acts in a foreign state appears
15 in a digest of foreign law or in a list customarily used as a
16 source for that information, the authority of an officer with
17 that title to perform notarial acts is conclusively
18 established.

19 D. The signature and official stamp of an
20 individual holding an office described in Subsection C of this
21 section are prima facie evidence that the signature is genuine
22 and the individual holds the designated title.

23 E. An apostille in the form prescribed by the Hague
24 Convention of October 5, 1961 and issued by a foreign state
25 party to the Hague Convention of October 5, 1961 conclusively

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1 establishes that the signature of the notarial officer is
2 genuine and that the officer holds the indicated office.

3 F. A consular authentication issued by an
4 individual designated by the United States department of state
5 as a notarizing officer for performing notarial acts overseas
6 and attached to the record with respect to which the notarial
7 act is performed conclusively establishes that the signature of
8 the notarial officer is genuine and that the officer holds the
9 indicated office.

10 SECTION 15. [NEW MATERIAL] NOTARIAL ACT PERFORMED FOR
11 REMOTELY LOCATED INDIVIDUALS.--

12 A. As used in this section:

13 (1) "communication technology" means an
14 electronic device or process that:

15 (a) allows a notary public and a
16 remotely located individual to communicate with each other
17 simultaneously by sight and sound; and

18 (b) when necessary and consistent with
19 other applicable law, facilitates communication with a remotely
20 located individual who has a vision, hearing or speech
21 impairment;

22 (2) "foreign state" means a jurisdiction other
23 than the United States, a state or a federally recognized
24 Indian tribe;

25 (3) "identity proofing" means a process or

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1 service by which a third person provides a notary public with a
2 means to verify the identity of a remotely located individual
3 by a review of personal information from public or private data
4 sources;

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

10 (5) "remotely located individual" means an
11 individual who is not in the physical presence of the notary
12 public who performs a notarial act under Subsection C of this
13 section.

14 B. A remotely located individual may comply with
15 Section 5 of the Revised Uniform Law on Notarial Acts by using
16 communication technology to appear before a notary public.

17 C. A notary public or notarial officer located in
18 this state may perform a notarial act using communication
19 technology for a remotely located individual if:

20 (1) the notary public:

21 (a) has personal knowledge of the
22 identity of the individual pursuant to Subsection A of Section
23 6 of the Revised Uniform Law on Notarial Acts;

24 (b) has satisfactory evidence of the
25 identity of the remotely located individual by oath or

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1 affirmation from a credible witness appearing before the notary
2 public pursuant to Subsection B of Section 6 of the Revised
3 Uniform Law on Notarial Acts or this section; or

4 (c) has obtained satisfactory evidence
5 of the identity of the remotely located individual by using at
6 least two different types of identity proofing;

7 (2) the notary public is reasonably able to
8 confirm that a record before the notary public is the same
9 record in which the remotely located individual made a
10 statement or on which the individual executed a signature;

11 (3) the notary public, or a person acting on
12 behalf of the notary public, creates an audiovisual recording
13 of the performance of the notarial act; and

14 (4) for a remotely located individual located
15 outside the United States:

16 (a) the record: 1) is to be filed with
17 or relates to a matter before a public official or court,
18 governmental entity or other entity subject to the jurisdiction
19 of the United States; or 2) involves property located in the
20 territorial jurisdiction of the United States or involves a
21 transaction substantially connected with the United States; and

22 (b) the act of making the statement or
23 signing the record is not prohibited by the foreign state in
24 which the remotely located individual is located.

25 D. If a notarial act is performed pursuant to this

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1 section, the certificate of notarial act required by Section 16
2 of the Revised Uniform Law on Notarial Acts and the short-form
3 certificate provided in Section 17 of the Revised Uniform Law
4 on Notarial Acts shall indicate that the notarial act was
5 performed using communication technology.

6 E. A short-form certificate provided pursuant to
7 Section 17 of the Revised Uniform Law on Notarial Acts for a
8 notarial act subject to this section is sufficient if it:

9 (1) complies with rules adopted under
10 Paragraph (1) of Subsection H of this section; or

11 (2) is in the form provided in Section 17 of
12 the Revised Uniform Law on Notarial Acts and contains a
13 statement substantially as follows: "This notarial act
14 involved the use of communication technology."

15 F. A notary public, a guardian, conservator or
16 agent of a notary public or a personal representative of a
17 deceased notary public shall retain the audiovisual recording
18 created pursuant to Paragraph (3) of Subsection C of this
19 section or cause the recording to be retained by a repository
20 designated by or on behalf of the person required to retain the
21 recording. Unless a different period is required by rule
22 adopted pursuant to Paragraph (4) of Subsection H of this
23 section, the recording must be retained for a period of at
24 least ten years after the recording is made.

25 G. Before a notary public performs the notary

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1 public's initial notarial act under this section, the notary
2 public shall notify the secretary of state that the notary
3 public will be performing notarial acts with respect to
4 remotely located individuals and identify the technologies the
5 notary public intends to use. If the secretary of state has
6 established standards pursuant to Subsection H of this section
7 and Section 28 of the Revised Uniform Law on Notarial Acts for
8 approval of communication technology or identity proofing, the
9 communication technology and identity proofing shall conform to
10 the standards.

11 H. In addition to adopting rules pursuant to
12 Section 28 of the Revised Uniform Law on Notarial Acts, the
13 secretary of state may adopt rules under this section regarding
14 performance of a notarial act. The rules may:

15 (1) prescribe the means of performing a
16 notarial act involving a remotely located individual using
17 communication technology;

18 (2) establish standards for communication
19 technology and identity proofing;

20 (3) establish requirements or procedures to
21 approve providers of communication technology and the process
22 of identity proofing; and

23 (4) establish standards and a period for the
24 retention of an audiovisual recording created pursuant to
25 Paragraph (3) of Subsection C of this section.

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1 I. Before adopting, amending or repealing a rule
2 governing performance of a notarial act with respect to a
3 remotely located individual, the secretary of state shall
4 consider:

5 (1) the most recent standards regarding the
6 performance of a notarial act with respect to a remotely
7 located individual promulgated by national standard-setting
8 organizations and the recommendations of the national
9 association of secretaries of state;

10 (2) standards, practices and customs of other
11 jurisdictions that have laws substantially similar to this
12 section; and

13 (3) the views of governmental officials and
14 entities and other interested persons.

15 J. By allowing its communication technology or
16 identity proofing to facilitate a notarial act for a remotely
17 located individual or by providing storage of the audiovisual
18 recording created pursuant to Paragraph (3) of Subsection C of
19 this section, the provider of the communication technology,
20 identity proofing or storage appoints the secretary of state as
21 the provider's agent for service of process in a civil action
22 in this state related to the notarial act.

23 SECTION 16. [NEW MATERIAL] CERTIFICATE OF NOTARIAL ACT.--

24 A. A notarial act shall be evidenced by a
25 certificate. The certificate shall:

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1 (1) be executed contemporaneously with the
2 performance of the notarial act;

3 (2) be signed and dated by the notarial
4 officer and, if the notarial officer is a notary public, be
5 signed in the same manner as on file with the secretary of
6 state;

7 (3) identify the jurisdiction in which the
8 notarial act is performed;

9 (4) contain the title of office of the
10 notarial officer;

11 (5) if the notarial officer is a notary public
12 not licensed to practice law, indicate the date of expiration
13 of the notarial officer's commission;

14 (6) identify the judicial district served if
15 the notarial officer is a judge or court clerk; and

16 (7) include the docket number or other
17 identification number of the matter requiring the notarial act
18 if the notarial officer is a court clerk.

19 B. If a notarial act regarding a tangible record is
20 performed by a notary public, an official stamp shall be
21 affixed to or embossed on the certificate. If a notarial act
22 is performed regarding a tangible record by a notarial officer
23 other than a notary public and the certificate contains the
24 information specified in Paragraphs (2), (3), (4), (5), (6) and
25 (7) of Subsection A of this section, an official stamp shall be

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1 affixed to or embossed on the certificate. If a notarial act
2 regarding an electronic record is performed by a notarial
3 officer and the certificate contains the information specified
4 in Paragraphs (2), (3), (4), (5), (6) and (7) of Subsection A
5 of this section, an official stamp may be attached to or
6 logically associated with the certificate.

7 C. A certificate of a notarial act is sufficient if
8 it meets the requirements of Subsections A and B of this
9 section and:

10 (1) is in a short-form set forth in Section 17
11 of the Revised Uniform Law on Notarial Acts;

12 (2) is in a form otherwise permitted by the
13 law of this state;

14 (3) is in a form permitted by the law
15 applicable in the jurisdiction in which the notarial act was
16 performed; or

17 (4) sets forth the actions of the notarial
18 officer, and the actions are sufficient to meet the
19 requirements of the notarial act as provided in Sections 4, 5
20 and 6 of the Revised Uniform Law on Notarial Acts or law of
21 this state other than the Revised Uniform Law on Notarial Acts.

22 D. By executing a certificate of a notarial act, a
23 notarial officer certifies that the officer has complied with
24 the requirements and made the determinations specified in
25 Sections 4, 5 and 6 of the Revised Uniform Law on Notarial

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1 Acts.

2 E. A notarial officer shall not affix the officer's
3 signature to, or logically associate it with, a certificate
4 until the notarial act has been performed.

5 F. If a notarial act is performed regarding a
6 tangible record, a certificate shall be part of, or securely
7 attached to, the record. If a notarial act is performed
8 regarding an electronic record, the certificate shall be
9 affixed to, or logically associated with, the electronic
10 record. If the secretary of state has established standards
11 pursuant to Section 28 of the Revised Uniform Law on Notarial
12 Acts for attaching, affixing or logically associating the
13 certificate, the process shall conform to the standards.

14 SECTION 17. [NEW MATERIAL] SHORT-FORM CERTIFICATES.--The
15 following short-form certificates of notarial acts are
16 sufficient for the purposes indicated, if completed with the
17 information required by Subsections A and B of Section 16 of
18 the Revised Uniform Law on Notarial Acts:

19 A. for an acknowledgment in an individual capacity:

20 State of _____

21 [County] of _____

22 This record was acknowledged before me on _____

23 _____
Date

24 by _____.

25 Name(s) of individual(s)

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Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district,
court docket number or date of commission expiration:

_____];

B. for an acknowledgment in a representative
capacity:

State of _____

[County] of _____

This record was acknowledged before me on _____ by

Date

Name(s) of individual(s)

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

Signature of notarial officer

Stamp

[_____]

Title of office

[New Mexico state bar identification number, judicial district,
court docket number or date of commission expiration:

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1 _____];

2 C. for a verification on oath or affirmation:

3 State of _____

4 [County] of _____

5 Signed and sworn to (or affirmed) before me on _____

6 Date

7 by _____.

8 Name(s) of individual(s)

9 making statement

10 _____

11 Signature of notarial officer

12 Stamp

13 [_____]

14 Title of office

15 [New Mexico state bar identification number, judicial district,
16 court docket number or date of commission expiration:

17 _____];

18 D. for witnessing or attesting a signature:

19 State of _____

20 [County] of _____

21 Signed (or attested) before me on _____ by

22 Date

23 _____.

24 Name(s) of individual(s)

25 _____

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1 Signature of notarial officer

2 Stamp

3 [_____]

4 Title of office

5 [New Mexico state bar identification number, judicial district,
6 court docket number or date of commission expiration:

7 _____]; and

8 E. for certifying a copy of a record:

9 State of _____

10 [County] of _____

11 I certify that this is a true and correct copy of a record in
12 the possession of _____.

13 Dated _____

14 _____

15 Signature of notarial officer

16 Stamp

17 [_____]

18 Title of office

19 [New Mexico state bar identification number, judicial district,
20 court docket number or date of commission expiration:

21 _____].

22 SECTION 18. [NEW MATERIAL] OFFICIAL STAMP.--The official
23 stamp of a notary public shall:

24 A. include the notary public's name, jurisdiction,
25 New Mexico state bar identification number if the notary public

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1 is licensed to practice law in this state, judicial district
2 served if the notarial officer is a judge, docket number or
3 other identification of the matter requiring the notarial act
4 if the notarial officer is a court clerk or date of commission
5 expiration and other information required by the secretary of
6 state;

7 B. be capable of being copied together with the
8 record to which it is affixed or attached or with which it is
9 logically associated; and

10 C. be filed with the secretary of state.

11 SECTION 19. [NEW MATERIAL] STAMPING DEVICE.--

12 A. A notary public is responsible for the security
13 of the notary public's stamping device and may not allow
14 another individual to use the device to perform a notarial act.
15 On resignation from, or the revocation or expiration of, the
16 notary public's commission, or on the expiration of the date
17 set forth in the stamping device, if any, the notary public
18 shall disable the stamping device by destroying, defacing,
19 damaging, erasing or securing it against use in a manner that
20 renders it unusable. On the death or adjudication of
21 incompetency of a notary public, the notary public's personal
22 representative or guardian or any other person knowingly in
23 possession of the stamping device shall render it unusable by
24 destroying, defacing, damaging, erasing or securing it against
25 use in a manner that renders it unusable.

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1 B. If a notary public's stamping device is lost or
2 stolen, the notary public or the notary public's personal
3 representative or guardian shall promptly notify the
4 commissioning officer or agency on discovering that the device
5 is lost or stolen.

6 **SECTION 20. [NEW MATERIAL] JOURNAL.--**

7 A. A notary public other than an individual
8 licensed to practice law in this state shall maintain a journal
9 in which the notary public chronicles all notarial acts that
10 the notary public performs. The notary public shall retain the
11 journal for ten years after the performance of the last
12 notarial act chronicled in the journal.

13 B. A journal may be created on a tangible medium or
14 in an electronic format. A notary public or notarial officer
15 performing notarial acts pursuant to Subsection E of this
16 section shall maintain only one journal at a time to chronicle
17 all notarial acts, whether those notarial acts are performed
18 regarding tangible or electronic records. If the journal is
19 maintained on a tangible medium, it must be a permanent, bound
20 register with numbered pages. If the journal is maintained in
21 an electronic format, it must be in a permanent, tamper-evident
22 electronic format complying with the rules of the secretary of
23 state.

24 C. An entry in a journal must be made
25 contemporaneously with performance of the notarial act and

1 contain the following information:

2 (1) the date and time of the notarial act;

3 (2) a description of the record, if any, and
4 type of notarial act;

5 (3) the full name and address of each
6 individual for whom the notarial act is performed;

7 (4) if identity of the individual is based on
8 personal knowledge, a statement to that effect;

9 (5) if identity of the individual is based on
10 satisfactory evidence, a brief description of the method of
11 identification and the identification credential presented, if
12 any, including the date of issuance and expiration of any
13 identification credential; and

14 (6) the fee, if any, charged by the notary
15 public.

16 D. If a notary public's journal is lost or stolen,
17 the notary public shall promptly notify the secretary of state
18 on discovering that the journal is lost or stolen.

19 E. Pursuant to the requirements provided in
20 Subsections B and C of this section, a notarial officer
21 licensed to practice law in this state shall maintain a journal
22 when performing notarial acts for members of the public
23 unrelated to an established attorney-client relationship or
24 performing notarial acts not requiring the practice of law.

25 F. On resignation from, or the revocation or

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1 suspension of, a notary public's commission, the notary public
2 shall retain the notary public's journal in accordance with
3 Subsection A of this section and inform the secretary of state
4 of where the journal is located.

5 G. Instead of retaining a journal as provided in
6 Subsections A and F of this section, a current or former notary
7 public may transmit the journal to the secretary of state, the
8 state records officer or a repository approved by the secretary
9 of state.

10 H. On the death or adjudication of incompetency of
11 a current or former notary public, the notary public's personal
12 representative or guardian or any other person knowingly in
13 possession of the journal shall transmit the journal to the
14 secretary of state, the state records officer or a repository
15 approved by the secretary of state.

16 SECTION 21. [NEW MATERIAL] NOTIFICATION REGARDING
17 PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD--SELECTION OF
18 TECHNOLOGY--ACCEPTANCE OF TANGIBLE COPY OF ELECTRONIC RECORD.--

19 A. A notary public or notarial officer licensed to
20 practice law shall select one or more tamper-evident
21 technologies to perform notarial acts with respect to
22 electronic records. A person may not require a notary public
23 or notarial officer licensed to practice law to perform a
24 notarial act with respect to an electronic record with a
25 technology that the notary public has not selected.

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1 B. Before performing the notary public's or
2 notarial officer's initial notarial act with respect to an
3 electronic record, a notary public or notarial officer licensed
4 to practice law shall notify the secretary of state that the
5 notary public will be performing notarial acts with respect to
6 electronic records and identify the technology the notary
7 public intends to use. If the secretary of state has
8 established standards for approval of technology pursuant to
9 Section 28 of the Revised Uniform Law on Notarial Acts, the
10 technology must conform to the standards. If the technology
11 conforms to the standards, the secretary of state shall approve
12 the use of the technology.

13 C. A recorder may accept for recording a tangible
14 copy of an electronic record containing a notarial certificate
15 as satisfying any requirement that a record accepted for
16 recording be an original, if the notarial officer licensed to
17 practice law executing the notarial certificate certifies that
18 the tangible copy is an accurate copy of the electronic record.

19 SECTION 22. [NEW MATERIAL] COMMISSION AS NOTARY PUBLIC
20 QUALIFICATIONS--NO IMMUNITY OR BENEFIT.--

21 A. An individual who is not licensed to practice
22 law in this state, a judge or a court clerk, and who is
23 qualified pursuant to Subsection B of this section, may apply
24 to the secretary of state for a commission as a notary public.
25 The applicant shall comply with and provide the information

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1 required by rules established by the secretary of state and pay
2 any application fee.

3 B. To qualify for the commission as a notary
4 public, an applicant shall:

5 (1) be at least eighteen years of age;

6 (2) be a citizen or permanent legal resident
7 of the United States;

8 (3) be a resident of or have a place of
9 employment or practice in this state;

10 (4) be able to read and write English;

11 (5) not be disqualified to receive a
12 commission under Section 24 of the Revised Uniform Law on
13 Notarial Acts;

14 (6) have passed the examination required
15 pursuant to Subsection A of Section 23 of the Revised Uniform
16 Law on Notarial Acts; and

17 (7) not otherwise be qualified as a notarial
18 officer by holding a license to practice law in this state, by
19 serving as a judge in a court of this state or a court clerk in
20 a court of this state performing a notarial act within the
21 scope of the court clerk's duties.

22 C. Before issuance of a commission as a notary
23 public, an applicant for the commission shall execute an oath
24 of office and submit it to the secretary of state.

25 D. Not more than thirty days after issuance of a

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1 commission as a notary public, the notary public or applicant
2 for a commission shall submit to the secretary of state an
3 assurance in the form of a surety bond or its functional
4 equivalent in the amount of ten thousand dollars (\$10,000).
5 The assurance must be issued by a surety or other entity
6 licensed or authorized to do business in this state. The
7 assurance must cover acts performed during the term of the
8 notary public's commission and must be in the form prescribed
9 by the secretary of state. If a notary public violates law
10 with respect to notaries public in this state, the surety or
11 issuing entity is liable under the assurance. The surety or
12 issuing entity shall give thirty days notice to the secretary
13 of state before canceling the assurance. The surety or issuing
14 entity shall notify the secretary of state not later than
15 thirty days after making a payment to a claimant under the
16 assurance. A notary public may perform notarial acts in this
17 state only during the period that a valid assurance is on file
18 with the secretary of state.

19 E. On compliance with this section, the secretary
20 of state shall issue a commission as a notary public to an
21 applicant for a term of four years.

22 F. A commission to act as a notary public
23 authorizes the notary public to perform notarial acts. The
24 commission does not provide the notary public any immunity or
25 benefit conferred by law of this state on public officials or

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1 employees.

2 SECTION 23. [NEW MATERIAL] EXAMINATION OF NOTARY PUBLIC
3 AND NOTARIAL OFFICERS--CONTINUING LEGAL EDUCATION
4 REQUIREMENTS.--

5 A. An applicant for a commission as a notary public
6 who does not hold a commission in this state is required to
7 pass an examination administered by the secretary of state or
8 an entity approved by the secretary of state. The examination
9 will be based on the course of study described in Subsection B
10 of this section.

11 B. The secretary of state or an entity approved by
12 the secretary of state shall offer regularly a course of study
13 to applicants who do not hold commissions as notaries public in
14 this state. The course must cover the laws, rules, procedures
15 and ethics relevant to notarial acts.

16 C. A notarial officer authorized to practice law in
17 this state may obtain one unit of continuing legal education
18 credit, pursuant to rules established by the board of bar
19 commissioners of the state of New Mexico, for participating in
20 continuing legal education related to performing the notarial
21 acts.

22 SECTION 24. [NEW MATERIAL] GROUNDS TO DENY, REFUSE TO
23 RENEW, REVOKE, SUSPEND OR CONDITION COMMISSION OF NOTARY
24 PUBLIC.--

25 A. The secretary of state may deny, refuse to

.217843.1

1 renew, revoke, suspend or impose a condition on a commission as
2 notary public for any act or omission that demonstrates that
3 the individual lacks the honesty, integrity, competence or
4 reliability to act as a notary public, including:

5 (1) failure to comply with the Revised Uniform
6 Law on Notarial Acts;

7 (2) a fraudulent, dishonest or deceitful
8 misstatement or omission in the application for a commission as
9 a notary public submitted to the secretary of state;

10 (3) a conviction of the applicant or notary
11 public of any felony or a crime involving fraud, dishonesty or
12 deceit;

13 (4) a finding against, or admission of
14 liability by, the applicant or notary public in any legal
15 proceeding or disciplinary action based on the applicant's or
16 notary public's fraud, dishonesty or deceit;

17 (5) failure by the notary public to discharge
18 any duty required of a notary public, whether by the provisions
19 of the Revised Uniform Law on Notarial Acts, rules of the
20 secretary of state or any federal or state law;

21 (6) use of false or misleading advertising or
22 representation by the notary public representing that the
23 notary has a duty, right or privilege that the notary does not
24 have;

25 (7) violation by the notary public of a rule

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1 of the secretary of state regarding a notary public;

2 (8) denial, refusal to renew, revocation,
3 suspension or conditioning of a notary public commission in
4 another state; or

5 (9) failure of the notary public to maintain
6 an assurance as provided in Subsection D of Section 22 of the
7 Revised Uniform Law on Notarial Acts.

8 B. If the secretary of state denies, refuses to
9 renew, revokes, suspends or imposes conditions on a commission
10 as a notary public, the applicant or notary public is entitled
11 to timely notice and hearing in accordance with the
12 Administrative Procedures Act. The secretary of state is
13 subject to the provisions of the Administrative Procedures Act
14 for the purposes of providing notice and providing a hearing
15 pursuant to this section.

16 C. The authority of the secretary of state to deny,
17 refuse to renew, suspend, revoke or impose conditions on a
18 commission as a notary public does not prevent a person from
19 seeking and obtaining other criminal or civil remedies provided
20 by law.

21 SECTION 25. [NEW MATERIAL] DATABASE OF NOTARIES PUBLIC.--
22 The secretary of state shall maintain an electronic database of
23 notaries public providing the following:

24 A. information and a means through which a person
25 may verify the authority of a notary public to perform notarial

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1 acts; and

2 B. indication of whether a notary public has
3 notified the secretary of state that the notary public will be
4 performing notarial acts on electronic records.

5 SECTION 26. [NEW MATERIAL] PROHIBITED ACTS.--

6 A. A commission as a notary public not licensed to
7 practice law in this state does not authorize an individual to:

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

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

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

15 (4) receive compensation for performing any of
16 the activities listed in this subsection.

17 B. A notary public shall not engage in false or
18 deceptive advertising.

19 C. A notary public, other than an attorney licensed
20 to practice law in this state, shall not use the term "notario"
21 or "notario publico".

22 D. A notary public, other than an attorney licensed
23 to practice law in this state, shall not advertise or represent
24 that the notary public may assist persons in drafting legal
25 records, give legal advice or otherwise practice law. If a

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1 notary public who is not an attorney licensed to practice law
2 in this state in any manner advertises or represents that the
3 notary public offers notarial services, whether orally or in a
4 record, including broadcast media, print media and the
5 internet, the notary public shall include the following
6 statement or an alternate statement authorized or required by
7 the secretary of state, in the advertisement or representation,
8 prominently and in each language used in the advertisement or
9 representation: "I am not an attorney licensed to practice law
10 in this state. I am not allowed to draft legal records,
11 give advice on legal matters, including immigration, or charge
12 a fee for those activities.". If the form of advertisement or
13 representation is not broadcast media, print media or the
14 internet and does not permit inclusion of the statement
15 required by this subsection because of size, the statement
16 shall be displayed prominently or provided at the place of
17 performance of the notarial act before the notarial act is
18 performed.

19 E. Except as otherwise allowed by law, a notary
20 public shall not withhold access to or possession of an
21 original record provided by a person that seeks performance of
22 a notarial act by the notary public.

23 SECTION 27. [NEW MATERIAL] VALIDITY OF NOTARIAL ACTS.--
24 Except as otherwise provided in Subsection B of Section 3 of
25 the Revised Uniform Law on Notarial Acts, the failure of a

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1 notarial officer to perform a duty or meet a requirement
2 specified in the Revised Uniform Law on Notarial Acts does not
3 invalidate a notarial act performed by the notarial officer.
4 The validity of a notarial act under the Revised Uniform Law on
5 Notarial Acts does not prevent an aggrieved person from seeking
6 to invalidate the record or transaction that is the subject of
7 the notarial act or from seeking other remedies based on law of
8 this state other than the Revised Uniform Law on Notarial Acts
9 or law of the United States. This section does not validate a
10 purported notarial act performed by an individual who does not
11 have the authority to perform notarial acts.

12 SECTION 28. [NEW MATERIAL] RULES.--

13 A. The secretary of state may adopt rules to
14 implement the Revised Uniform Law on Notarial Acts. Rules
15 adopted regarding the performance of notarial acts with respect
16 to electronic records may not require, or accord greater legal
17 status or effect to, the implementation or application of a
18 specific technology or technical specification. The rules may:

19 (1) prescribe the manner of performing
20 notarial acts regarding tangible and electronic records;

21 (2) include provisions to ensure that any
22 change to or tampering with a record bearing a certificate of a
23 notarial act is self-evident;

24 (3) include provisions to ensure integrity in
25 the creation, transmittal, storage or authentication of

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1 electronic records or signatures;

2 (4) prescribe the process of granting,
3 renewing, conditioning, denying, suspending or revoking a
4 notary public commission and assuring the trustworthiness of an
5 individual holding a commission as notary public;

6 (5) include provisions to prevent fraud or
7 mistake in the performance of notarial acts;

8 (6) establish the process for approving and
9 accepting surety bonds and other forms of assurance pursuant to
10 Subsection D of Section 22 of the Revised Uniform Law on
11 Notarial Acts;

12 (7) provide for the administration of the
13 examination pursuant to Subsection A of Section 23 of the
14 Revised Uniform Law on Notarial Acts and the course of study
15 pursuant to Subsection B of Section 23 of the Revised Uniform
16 Law on Notarial Acts; and

17 (8) provide for the administration of
18 continuing legal education for attorneys authorized to practice
19 law in this state in collaboration with the board of bar
20 commissioners of the state of New Mexico and pursuant to rules
21 adopted by the board of bar commissioners of the state of New
22 Mexico.

23 B. In adopting, amending or repealing rules about
24 notarial acts with respect to electronic records, the secretary
25 of state shall consider, so far as is consistent with the

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1 Revised Uniform Law on Notarial Acts:

2 (1) the most recent standards regarding
3 electronic records promulgated by national bodies, such as the
4 national association of secretaries of state;

5 (2) standards, practices and customs of other
6 jurisdictions that substantially enact the revised uniform law
7 on notarial acts; and

8 (3) the views of governmental officials and
9 entities and other interested persons.

10 SECTION 29. [NEW MATERIAL] NOTARY PUBLIC COMMISSION IN
11 EFFECT.--

12 A. A commission as a notary public in effect on the
13 effective date of the Revised Uniform Law on Notarial Acts
14 continues until its date of expiration.

15 B. A notarial officer authorized to practice law in
16 this state is authorized to practice notarial acts with no
17 expiration of this authority but shall maintain an active
18 license to practice law.

19 C. A notary public not authorized to practice law
20 in this state who applies to renew a commission as a notary
21 public on or after the effective date of the Revised Uniform
22 Law on Notarial Acts is subject to and shall comply with the
23 Revised Uniform Law on Notarial Acts.

24 D. A notary public or notarial officer, in
25 performing notarial acts after the effective date of the

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1 Revised Uniform Law on Notarial Acts, shall comply with the
2 Revised Uniform Law on Notarial Acts.

3 SECTION 30. [NEW MATERIAL] FEES.--

4 A. A notary public or notarial officer may charge
5 the maximum fee specified in this section, charge less than the
6 maximum fee or waive the fee.

7 B. In accordance with the Human Rights Act, a
8 notary public or notarial officer shall not discriminate by
9 conditioning the fee for a notarial act on the attributes of
10 the principal.

11 C. An employer shall not establish fees for
12 notarial services that are in excess of those specified in this
13 section nor on the attributes of the principal as delineated.

14 D. The maximum fees that may be charged by a notary
15 public or notarial officer licensed to practice law for
16 notarial acts are:

17 (1) for acknowledgments, five dollars (\$5.00)
18 per acknowledgment;

19 (2) for oaths or affirmations without a
20 signature, five dollars (\$5.00) per person;

21 (3) for jurats, five dollars (\$5.00) per
22 jurat; and

23 (4) for copy certifications, fifty cents
24 (\$.50) per page with a minimum total charge of five dollars
25 (\$5.00).

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1 E. Pursuant to the Per Diem and Mileage Act, a
2 notary public or notarial officer licensed to practice law may
3 charge a travel fee not to exceed thirty cents (\$.30) per mile
4 when traveling to perform a notarial act if:

5 (1) the notary public and the person
6 requesting the notarial act agree upon the travel fee in
7 advance of the travel; and

8 (2) the notary public explains to the person
9 requesting the notarial act that the travel fee is separate
10 from the notarial fees and not mandated by law.

11 **SECTION 31. [NEW MATERIAL] INSPECTION OF PUBLIC RECORDS**
12 **ACT COMPLIANCE.--**

13 A. Members of the public may request documents
14 related to a notarial act transaction pursuant to the
15 Inspection of Public Records Act.

16 B. A request made pursuant to Subsection A of this
17 section shall name the notarial act transaction and documents
18 requested related to the notarial act with particularity,
19 naming the document subject to the notarial act in the request.

20 C. No request for documents relating to a notarial
21 act that does not name the document subject to the notarial act
22 or that seeks production of numerous documents related to a
23 transaction shall be accommodated.

24 **SECTION 32. [NEW MATERIAL] SAVING CLAUSE.--**The Revised
25 Uniform Law on Notarial Acts does not affect the validity or

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1 effect of a notarial act performed before the effective date of
2 the Revised Uniform Law on Notarial Acts.

3 SECTION 33. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND
4 CONSTRUCTION.--In applying and construing the Revised Uniform
5 Law on Notarial Acts, consideration shall be given to the need
6 to promote uniformity of the law with respect to its subject
7 matter among states that enact it.

8 SECTION 34. [NEW MATERIAL] RELATION TO FEDERAL ELECTRONIC
9 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Revised
10 Uniform Law on Notarial Acts modifies, limits and supersedes
11 the federal Electronic Signatures in Global and National
12 Commerce Act, but does not modify, limit or supersede Section
13 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
14 electronic delivery of any of the notices described in Section
15 103(b) of that act, 15 U.S.C. Section 7003(b).

16 SECTION 35. REPEAL.--Sections 14-12A-1 through 14-12A-26
17 and 14-14-1 through 14-14-11 NMSA 1978 (being Laws 2003,
18 Chapter 286, Sections 1 through 26 and Laws 1993, Chapter 281,
19 Sections 1 through 11) are repealed.

20 SECTION 36. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is January 1, 2022.