

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 465**

FINAL READING

Introduced by Harr, 8.

Read first time January 20, 2015

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to notaries public; to adopt the Electronic
- 2 Notary Public Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 17 of this act shall be known and may be  
2 cited as the Electronic Notary Public Act.

3           Sec. 2. For purposes of the Electronic Notary Public Act:

4           (1) Electronic means relating to technology having electrical,  
5 digital, magnetic, wireless, optical, electromagnetic, or similar  
6 capabilities;

7           (2) Electronic document means information that is created,  
8 generated, sent, communicated, received, or stored by electronic means;

9           (3) Electronic notarial act means an official act by an electronic  
10 notary public that involves electronic documents;

11           (4) Electronic notary public means a notary public registered with  
12 the Secretary of State that has the capability of performing electronic  
13 notarial acts in conformance with the Electronic Notary Public Act;

14           (5) Electronic notary seal means information within a notarized  
15 electronic document that includes the notary public's name, jurisdiction,  
16 and commission expiration date and generally corresponds to the data in  
17 notary seals used on paper documents;

18           (6) Electronic notary solution provider means a provider of any  
19 electronic notary seals or electronic signatures;

20           (7) Electronic signature means an electronic symbol or process  
21 attached to or logically associated with an electronic document and  
22 executed or adopted by a person with the intent to sign the document; and

23           (8) Notary public's electronic signature means an electronic  
24 signature which has been approved by the Secretary of State in rules and  
25 regulations adopted and promulgated under section 16 of this act as an  
26 acceptable means for an electronic notary public to attach or logically  
27 associate the notary public's official signature to an electronic  
28 document that is being notarized.

29           Sec. 3. (1) To be eligible to register as an electronic notary  
30 public, a person shall:

31           (a) Hold a valid commission as a notary public in the State of

1 Nebraska;

2 (b) Satisfy the education requirement of section 5 of this act; and

3 (c) Pay the fee required under section 6 of this act.

4 (2) The Secretary of State shall not accept the registration if the  
5 requirements of subsection (1) of this section are not met.

6 Sec. 4. (1) Before performing an electronic notarial act, a notary  
7 public shall register with the Secretary of State in a manner prescribed  
8 by the Secretary of State.

9 (2) The registration shall specify the technology the notary public  
10 intends to use to perform an electronic notarial act. Such technology  
11 shall be provided by an electronic notary solution provider approved by  
12 the Secretary of State.

13 (3) The term of registration as an electronic notary public shall  
14 coincide with the term of the commission of the notary public.

15 (4) A person registered as an electronic notary public may renew his  
16 or her electronic notary public registration at the same time he or she  
17 renews his or her notary public commission.

18 Sec. 5. (1) Before registering as an electronic notary public, a  
19 notary public shall take a course of instruction approved by the  
20 Secretary of State and pass an examination for such course in addition to  
21 the requirements provided in section 64-101.01.

22 (2) The content of the course and the basis for the examination  
23 shall include notarial laws, procedures, technology, and the ethics of  
24 electronic notarization.

25 Sec. 6. The fee for registering or reregistering as an electronic  
26 notary shall be in addition to the fee required in section 33-102. The  
27 Secretary of State shall establish the fee by rule and regulation in an  
28 amount sufficient to cover the costs of administering the Electronic  
29 Notary Public Act, but the fee shall not exceed one hundred dollars. The  
30 Secretary of State shall remit fees received under this section to the  
31 State Treasurer for credit to the Administration Cash Fund for use in

1 administering the Electronic Notary Public Act.

2 Sec. 7. The following types of electronic notarial acts may be  
3 performed by an electronic notary public:

4 (1) Acknowledgments;

5 (2) Jurats;

6 (3) Verifications or proofs; and

7 (4) Oaths or affirmations.

8 Sec. 8. An electronic notarial act shall not be performed if the  
9 signer of the electronic document is not in the physical presence of the  
10 electronic notary public at the time of notarization and is not  
11 personally known to the electronic notary public or identified by the  
12 notary public through satisfactory evidence as provided in section  
13 64-105.

14 Sec. 9. In performing an electronic notarial act, all of the  
15 following components shall be attached to, or logically associated with,  
16 the electronic document by the electronic notary public and shall be  
17 immediately perceptible and reproducible in the electronic document to  
18 which the notary public's electronic signature is attached: (1) The  
19 electronic notary seal; (2) the notary public's electronic signature; and  
20 (3) the completed wording of one of the following notarial certificates:  
21 (a) Acknowledgment, (b) jurat, (c) verification or proof, or (d) oath or  
22 affirmation.

23 Sec. 10. (1) A notary public's electronic signature in combination  
24 with the electronic notary seal shall be used only for the purpose of  
25 performing an electronic notarial act.

26 (2) An electronic notary public shall safeguard his or her  
27 electronic signature, electronic notary seal, and all other notarial  
28 records. Notarial records shall be maintained by the electronic notary  
29 public, and the electronic notary public shall not surrender or destroy  
30 the records except as required by a court order or as allowed under rules  
31 and regulations adopted and promulgated by the Secretary of State.

1       (3) When not in use, the electronic notary public shall keep his or  
2 her electronic signature, electronic notary seal, and all other notarial  
3 records secure, under his or her exclusive control, and shall not allow  
4 them to be used by any other notary public or any other person.

5       (4) Within ten days after discovering that his or her electronic  
6 notary seal or electronic signature has been stolen, lost, damaged, or  
7 otherwise rendered incapable of being attached to or logically associated  
8 with an electronic document, an electronic notary public shall notify the  
9 Secretary of State and appropriate law enforcement agency in the case of  
10 theft or vandalism.

11       Sec. 11. (1) When the registration of an electronic notary public  
12 expires or is resigned, canceled, or revoked or when an electronic notary  
13 public dies, he or she or his or her duly authorized representative shall  
14 erase, delete, or destroy the coding, disk, certificate, card, software,  
15 file, or program that enables the attachment or logical association of  
16 the notary public's electronic signature.

17       (2) A former electronic notary public whose previous registration  
18 was not revoked, canceled, or denied by the Secretary of State need not  
19 erase, delete, or destroy the coding, disk, certificate, card, software,  
20 file, or program that enables the attachment or logical association of  
21 the notary public's electronic signature if he or she is reregistered as  
22 an electronic notary public using the same electronic signature within  
23 three months after the registration expires.

24       Sec. 12. Electronic evidence of the authenticity of the notary  
25 public's electronic signature and electronic notary seal of an electronic  
26 notary public of this state, if required, shall be attached to, or  
27 logically associated with, a document with a notary public's electronic  
28 signature transmitted to another state or nation and shall be in the form  
29 of an electronic certificate of authority signed by the Secretary of  
30 State in conformance with any current and pertinent international  
31 treaties, agreements, and conventions subscribed to by the United States

1 Government.

2 Sec. 13. (1) An electronic certificate of authority evidencing the  
3 authenticity of the notary public's electronic signature and electronic  
4 notary seal of an electronic notary public of this state shall contain  
5 substantially the following words:

6 Certificate of Authority for an Electronic Notarial Act

7 I .....(name, title, jurisdiction of commissioning  
8 official) certify that ..... (name of electronic notary  
9 public), the person named as an electronic notary public in the attached  
10 or associated document, was indeed registered as an electronic notary  
11 public for the State of Nebraska and authorized to act as such at the  
12 time of the document's electronic notarization. To verify this  
13 Certificate of Authority for an Electronic Notarial Act, I have included  
14 herewith my electronic signature this ..... day  
15 of ....., 20.....

16 (Electronic signature (and seal) of commissioning official)

17 (2) The Secretary of State may charge a fee of twenty dollars for  
18 issuing an electronic certificate of authority. The Secretary of State  
19 shall remit the fees to the State Treasurer for credit to the  
20 Administration Cash Fund.

21 Sec. 14. A person violating the Electronic Notary Public Act is  
22 subject to having his or her registration removed under the removal  
23 procedures provided in section 64-113.

24 Sec. 15. Nothing in the Electronic Notary Public Act requires a  
25 notary public to register as an electronic notary public if he or she  
26 does not perform electronic notarial acts.

27 Sec. 16. The Secretary of State may adopt and promulgate rules and  
28 regulations to insure the integrity, security, and authenticity of  
29 electronic notarizations in accordance with the Electronic Notary Public  
30 Act. Such rules and regulations shall include procedures for the approval  
31 of electronic notary solution providers by the Secretary of State. In

1 addition, the Secretary of State may require an electronic notary public  
2 to create and to maintain a record, journal, or entry of each electronic  
3 notarial act.

4       Sec. 17. Sections 64-101 to 64-119 and 64-211 to 64-215 and the  
5 Uniform Recognition of Acknowledgments Act govern an electronic notary  
6 public unless the provisions of such sections and act are in conflict  
7 with the Electronic Notary Public Act, in which case the Electronic  
8 Notary Public Act controls.

9       Sec. 18. This act becomes operative on July 1, 2017.