

Chapter 194

2013 EDITION

Uniform Law on Notarial Acts; Unsworn Foreign Declarations

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MISCELLANEOUS MATTERS

194.005 [1967 c.541 §12; 1983 c.393 §12a; 1989 c.976 §1; repealed by 2013 c.219 §61]

194.010 [Amended by 1961 c.498 §1; 1967 c.541 §1; subsection (2) enacted as 1967 c.541 §8; 1975 c.161 §3; 1977 c.128 §1; 1983 c.393 §13; 1985 c.487 §1; 1989 c.976 §2; repealed by 2013 c.219 §61]

194.012 [1989 c.976 §6; repealed by 2013 c.219 §61]

194.014 [1989 c.976 §4; repealed by 2013 c.219 §61]

194.020 [Amended by 1957 s.s. c.7 §1; 1967 c.541 §3; 1983 c.393 §16; 1989 c.976 §9; 1993 c.66 §10; 2009 c.745 §17; repealed by 2013 c.219 §27 (194.365 enacted in lieu of 194.020)]

194.022 [1989 c.976 §7; 2005 c.733 §3; repealed by 2013 c.219 §61]

194.024 [1989 c.976 §8; 1993 c.188 §14; 2011 c.547 §39; repealed by 2013 c.219 §29 (194.370 enacted in lieu of 194.024)]

194.028 [2005 c.733 §2; repealed by 2013 c.219 §61]

194.030 [Amended by 1961 c.498 §2; repealed by 1967 c.541 §5 (194.031 enacted in lieu of 194.030)]

194.031 [1967 c.541 §6 (enacted in lieu of 194.030); 1983 c.393 §17; 1989 c.976 §10; 2001 c.63 §1; repealed by 2013 c.219 §61]

194.040 [Amended by 1967 c.541 §9; 1983 c.393 §18; 1989 c.976 §11; 2011 c.359 §7; repealed by 2013 c.219 §61]

194.043 [1989 c.976 §5; repealed by 2013 c.219 §61]

194.045 [1969 c.394 §§2,3,4; 1977 c.641 §1; 1983 c.393 §19; 1989 c.976 §16; repealed by 2005 c.68 §1]

194.047 [1989 c.976 §13; repealed by 2013 c.219 §61]

194.050 [Amended by 1961 c.498 §3; 1967 c.541 §4; repealed by 1983 c.393 §26]

194.052 [1989 c.976 §14; repealed by 2013 c.219 §61]

194.060 [Repealed by 1967 c.541 §22]

194.063 [1967 c.541 §11; 1977 c.128 §2; 1983 c.393 §21; 1985 c.487 §2; 1989 c.976 §17; 2005 c.733 §4; repealed by 2013 c.219 §61]

194.067 [1967 c.541 §18; repealed by 1989 c.976 §37]

194.070 [Amended by 1967 c.541 §13; 1993 c.545 §123; 2009 c.123 §1; repealed by 2013 c.219 §31 (194.375 enacted in lieu of 194.070)]

194.080 [Repealed by 1967 c.541 §22]

194.090 [Amended by 1967 c.541 §14; 1993 c.545 §124; 2009 c.123 §2; repealed by 2013 c.219 §33 (194.380 enacted in lieu of 194.090)]

194.100 [Amended by 1967 c.541 §15; 2009 c.123 §3; repealed by 2013 c.219 §35 (194.385 enacted in lieu of 194.100)]

194.110 [Repealed by 1989 c.976 §37]

194.120 [Amended by 1961 c.498 §4; repealed by 1989 c.976 §37]

194.130 [Amended by 1967 c.541 §19; repealed by 2013 c.219 §37 (194.390 enacted in lieu of 194.130)]

194.140 [Repealed by 1989 c.976 §37]

194.150 [Amended by 1967 c.541 §20; 1985 c.487 §3; repealed by 2013 c.219 §39 (194.395 enacted in lieu of 194.150)]

194.152 [1989 c.976 §15; 2009 c.123 §4; repealed by 2013 c.219 §61]

194.154 [1989 c.976 §19; repealed by 2013 c.219 §61]

194.156 [1989 c.976 §20; repealed by 2013 c.219 §61]

194.158 [1989 c.976 §§21,22; repealed by 2013 c.219 §61]

194.160 [Amended by 1967 c.541 §16; repealed by 1989 c.976 §37]

194.162 [1989 c.976 §23; repealed by 2013 c.219 §61]

194.164 [1989 c.976 §24; 1997 c.631 §424; 2009 c.338 §2; repealed by 2013 c.219 §41 (194.400 enacted in lieu of 194.164)]

194.166 [1989 c.976 §25; 2009 c.123 §5; 2009 c.338 §3; repealed by 2013 c.219 §61]

194.168 [1989 c.976 §26; repealed by 2013 c.219 §61]

194.170 [Amended by 1983 c.393 §20; repealed by 1989 c.976 §37]

194.180 [1961 c.91 §1; repealed by 1971 c.250 §1]

194.190 [1983 c.506 §3; repealed by 1989 c.976 §37]

194.200 [1983 c.506 §4; 1989 c.976 §29; repealed by 2013 c.219 §43 (194.405 enacted in lieu of 194.200)]

REVISED UNIFORM LAW ON NOTARIAL ACTS

194.205 Short title. This chapter may be cited as the Revised Uniform Law on Notarial Acts. [2013 c.219 §1]

194.210 [Repealed by 1969 c.394 §5]

194.215 Definitions. As used in this chapter:

(1) “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, 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 person identified in the record.

(2) “Clerk of a court of this state” means:

(a) The clerk, deputy clerk or court administrator of the Supreme Court, the Court of Appeals or the Oregon Tax Court;

(b) The trial court administrator or any other nonjudicial officer or employee of the circuit court for a county who is authorized by the presiding judge for the judicial district; or

(c) A nonjudicial officer or employee of a municipal court who is authorized by a judge of the municipal court.

(3) “Commercial paper” means instruments that are within the scope of ORS chapter 73, including drafts, checks, certificates of deposit and notes.

(4) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(5) “Electronic signature” means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(6) “In a representative capacity” means acting as:

(a) An authorized officer, agent, partner, trustee or other representative of a person other than an individual;

(b) A public officer, personal representative, guardian, conservator, trustee or other representative, in the capacity stated in a record;

(c) An agent of or attorney-in-fact for a principal; or

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

(7) “Judge” means:

(a) Any judge of the circuit court, the Oregon Tax Court, the Court of Appeals or the Supreme Court, any Oregon Tax Court magistrate, any justice of the peace or municipal judge or any county judge who exercises judicial functions; or

(b) Any judge or justice of the peace pro tempore.

(8) “Notarial act” means:

(a) Taking an acknowledgment;

(b) Administering an oath or affirmation;

(c) Taking a verification on oath or affirmation;

(d) Witnessing or attesting a signature;

(e) Certifying or attesting a copy;

(f) Making, noting or recording a protest of a negotiable instrument; or

(g) Any other act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state.

(9) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

(10) “Notary public” means an individual commissioned to perform a notarial act by the Secretary of State.

(11) “Oath” and “affirmation” mean a notarial act or part of a notarial act in which a notary public certifies that a person made a vow in the presence of the notary public on penalty of perjury.

(12) “Official stamp” means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.

(13) “Person” means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

(14) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) “Sign” means, with present intent to authenticate or adopt a record:

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

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

(16) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(17) “Stamping device” means:

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

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

(18) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true. [2013 c.219 §2]

194.220 [Repealed by 1969 c.394 §5]

194.225 Authority to perform notarial act. (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer’s spouse is a party, or in which either the officer or the officer’s spouse has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable. [2013 c.219 §3]

194.230 Requirements for certain notarial acts. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the declaration has the identity claimed and that the signature on the record containing the statement verified is the signature of the individual.

(3) A notarial officer who witnesses or attests a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the in-

dividual appearing before the officer and signing the record has the identity claimed.

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

(5) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in ORS 73.0505. [2013 c.219 §4]

194.235 Personal appearance required.

If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. [2013 c.219 §5]

194.240 Identification of individual. (1)

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

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(A) A United States passport or an officially recognized passport of a foreign country, or a driver license or identification card issued under ORS 807.400 or a comparable provision in another state, that is current or that expired not more than three years before performance of the notarial act; or

(B) A military identification card, an identity card issued by a federally recognized Indian tribe or other document issued by the federal government or a state, county or local government that is current or that expired not more than three years before performance of the notarial act and that contains the signature and a photograph of the individual;

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of:

(A) A United States passport or an officially recognized passport of a foreign country, or a driver license or identification card issued under ORS 807.400 or a comparable provision in another state, that is current or that expired not more than three years before performance of the notarial act; or

(B) A military identification card, an identity card issued by a federally recognized Indian tribe or other document issued by the

federal government or a state, county or local government that is current or that expired not more than three years before performance of the notarial act and that contains the signature and a photograph of the individual; or

(c) Positively by examination or comparison of official government documents or records if the individual is confined in a correctional facility.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to confirm the identity of the individual. [2013 c.219 §6]

194.245 Authority to refuse to perform notarial act. (1) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record;

(b) The individual's signature is knowingly and voluntarily made; or

(c) The individual has provided sufficient information or identification credentials necessary to confirm the identity of the individual.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter. [2013 c.219 §7]

194.250 Signature if individual unable to sign. If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import. [2013 c.219 §8]

194.255 Notarial act in this state. (1) A notarial act may be performed in this state by:

(a) A notary public;

(b) A judge of this state or a clerk of a court of this state;

(c) A county clerk or county employee with recording responsibilities designated by the county; or

(d) Any other individual authorized by the law of this state to perform the notarial act.

(2) Notarial acts performed under ORS 194.260, 194.265, 194.270 or 194.275 have the same effect as if performed by a notarial officer of this state.

(3) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature

is genuine and that the individual holds the designated title.

(4) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act. [2013 c.219 §9]

194.260 Notarial act in another state.

(1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in the other state is performed by:

- (a) A notary public of the other state;
- (b) A judge of the other state or a clerk of a court of the other state; or
- (c) Any other individual authorized by the law of the other state to perform the notarial act.

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

(3) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act. [2013 c.219 §10]

194.265 Notarial act under authority of federally recognized Indian tribe. (1) A notarial act performed under the authority of and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

- (a) A notarial officer of the tribe;
- (b) A judge of the tribe or a clerk of a court of the tribe; or
- (c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1) of this section conclusively establish the authority of the officer to perform the notarial act. [2013 c.219 §11]

194.270 Notarial act under federal authority. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial of-

ficer of this state, if the act performed under federal law is performed by:

- (a) A judge or a clerk of a court;
- (b) An individual in military service, or performing duties under the authority of the military service, who is authorized to perform notarial acts under federal law;
- (c) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
- (d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under federal authority are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an individual described in subsection (1) of this section conclusively establish the authority of the individual to perform the notarial act. [2013 c.219 §12]

194.275 Foreign notarial act. (1) As used in this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.

(2) If a notarial act is performed under the authority of and in the jurisdiction of a foreign state or a constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

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

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

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

(6) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial

officer is genuine and that the officer holds the indicated office. [2013 c.219 §13]

194.280 Certificate of notarial act. (1) A notarial act must be evidenced by a certificate. The certificate must:

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

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

(c) Contain the title of office of the notarial officer;

(d) Contain the name of the person for whom the notarial act is performed; and

(e) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(2) The notarial officer may subsequently correct any information included on or omitted from the certificate.

(3) Except as provided in subsection (8) of this section, if a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(a) to (d) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (1)(a) to (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) to (3) of this section and:

(a) Is in a short form set forth in ORS 194.285;

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

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

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in ORS 194.230, 194.235 and 194.240 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in ORS 194.225, 194.230, 194.235 and 194.240.

(6) A notarial officer may not affix or attach the officer's signature to, or logically

associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate of a notarial act must be part of or securely affixed to the record. If a notarial act is performed regarding an electronic record, the certificate must be attached to or logically associated with the electronic record. If the Secretary of State by rule has established standards pursuant to ORS 194.360 for affixing, attaching or logically associating the certificate, the process must conform to the standards.

(8) The imprint of the official stamp of a notary public is not required to effectuate a notarization of a subdivision or partition plat required under ORS 92.010 to 92.192 or a condominium plat required under ORS 100.115, or any replat, supplement or amendment thereto, if the following appear below the notary public's signature:

(a) The printed name of the notary public;

(b) The words "NOTARY PUBLIC - OREGON";

(c) The words "COMMISSION NO." immediately followed by the notary public's commission number; and

(d) The words "MY COMMISSION EXPIRES" immediately followed by the date the notary public's commission expires, expressed in terms of the month, by name not abbreviated, two-digit date and four-digit year. [2013 c.219 §14]

194.285 Short form certificates. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by ORS 194.280 (1) to (3):

(1) For an acknowledgment in an individual capacity:

State of _____

County of _____

This record was acknowledged before me on (date) _____ by (name(s) of individual(s)) _____.

Signature _____ of notarial officer:

Stamp (if required):

Title of office: _____

My commission expires: _____

(2) For an acknowledgment in a representative capacity:

State of _____

County of _____

This record was acknowledged before me on (date) _____ by (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 (if required):

Title of office: _____

My commission expires: _____

(3) For a verification on oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me on (date) _____ by (name(s) of individual(s)) _____ making statement _____.

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

(4) For witnessing or attesting a signature:

State of _____

County of _____

Signed (or attested) before me on (date) _____ by (name(s) of individual(s)) _____.

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

(5) For certifying or attesting a copy of a record:

State of _____

County of _____

I certify (or attest) that this is a true and correct copy of a record in the possession of _____.

Dated _____

Signature of notarial officer: _____

Stamp (if required):

Title of office: _____

My commission expires: _____

[2013 c.219 §15]

194.290 Official stamp. The official stamp of a notary public must:

(1) Include the notary public's name, jurisdiction, commission expiration date and other information required by the Secretary of State by rule; and

(2) Be a legible imprint capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. [2013 c.219 §16]

194.295 Stamping device. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device in performing a notarial act.

(2) On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration date set forth in the notary public's official stamp, the notary public shall disable the notary public's stamping device by destroying, defacing, damaging, erasing or securing the device against use.

(3) On the death or adjudication of incompetency of a notary public, the notary public's personal representative, guardian, conservator or trustee or any other person knowingly in possession of the notary public's stamping device shall render the device unusable by destroying, defacing, damaging, erasing or securing the device against use.

(4) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative, guardian, conservator or trustee shall notify promptly the Secretary of State on discovering that the device is lost or stolen. [2013 c.219 §17]

194.300 Journal. (1) Except as provided in subsection (11) of this section, a notary public shall maintain one or more journals in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(2) A journal may be created on a tangible medium or in an electronic format to chronicle all notarial acts, regardless of whether those notarial acts are performed for tangible or electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.

(3) An entry in a journal must be made contemporaneously with performance of each notarial act and must contain the following information:

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and contact address of each individual for whom the notarial act is performed;
- (d) If identity of the individual is based on personal knowledge, a statement to that effect;
- (e) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of expiration of any identification credential;
- (f) The signature of each individual for whom the notarial act is performed; and
- (g) The fee, if any, charged by the notary public.

(4)(a) If a notary public performs notarial acts involving duplicate originals of a single statement or document for the same individual on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3) of this section for each duplicate original, record a single entry in the journal for all notarial acts involving the statement or document. The entry shall set forth all the information required by subsection (3) of this section and the total number of duplicates of the statement or document notarized.

(b) If a notary public performs notarial acts involving different statements or documents for the same individual on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsection (3) of this section for each statement or document, record a single entry in the journal for all notarial acts involving the statements or documents. The entry shall set forth the number of statements or documents and the information required by subsection (3)(c) to (g) of this section and for each statement or document the information required by subsection (3)(a) and (b) of this section. If there are duplicate originals of any statement or document, the entry shall set forth the total number of duplicates of the statement or document notarized.

(c) If a notary public performs notarial acts involving more than one statement, signature or document for the same individual but not on the same date, the notary public may, in lieu of recording individually in the journal the information required by subsec-

tion (3)(c) to (e) of this section for each notarial act performed for that individual, record a reference to a prior entry in the notarial journal for that person. The reference shall identify the page and line numbers of the prior entry. The prior entry shall set forth the information required by subsection (3)(c) to (e) of this section.

(5) If a notary public's journal is lost or stolen, the notary public shall notify promptly the Secretary of State on discovering that the journal is lost or stolen.

(6) On expiration of, resignation from, or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section.

(7) On revocation of a notary public's commission, the notary public shall transmit the journal to the Secretary of State not later than 30 days after the date of revocation.

(8) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative, guardian, conservator or trustee or any other person knowingly in possession of the notary public's journal shall transmit the journal to the Secretary of State.

(9) A journal in the possession of a notary public who is not a public official or public employee is exempt from disclosure under ORS 192.410 to 192.505. A journal in the possession of the Secretary of State, or in the possession of a notary public who is a public official or public employee, is not exempt from disclosure under ORS 192.410 to 192.505 unless the secretary or other custodian determines that the public interest in disclosure is outweighed by the interests of the parties to a notarial act in keeping the journal record of the notarial act confidential. A determination by the secretary or other custodian under this subsection is subject to review under ORS 192.410 to 192.505.

(10) A notary public who is an employee may enter into an agreement with the employer under which the journal or journals of the notary public are retained by the employer upon termination of employment.

(11) A notary public may, but is not required to, record in a journal any information about the following notarial acts performed by, or documents notarized by, the notary public:

- (a) Recording a protest of commercial paper required under ORS 194.380;
- (b) Administering an oath or affirmation;
- (c) Certifying or attesting a copy of a document;
- (d) Taking an affidavit;

(e) Verifying a billing statement for media advertising; and

(f) Taking a verification upon oath or affirmation. [2013 c.219 §18]

194.305 Notification regarding performance of notarial act with respect to electronic records; selection of technology. (1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the Secretary of State that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the Secretary of State, by rule, has established standards pursuant to ORS 194.360 for approval of technology, the technology must conform to the standards. If the technology conforms to the standards, the Secretary of State shall approve the use of the technology. [2013 c.219 §19]

194.310 [Amended by 1961 c.498 §5; 1981 c.11 §4; 1983 c.506 §1; repealed by 1989 c.976 §37]

194.315 Commission as notary public; qualifications; no immunity or benefit. (1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required under rules adopted by the secretary and pay the application fee described in ORS 194.365.

(2) An applicant for a commission as a notary public must:

(a) Be at least 18 years of age;

(b) Be a resident of this state or have a place of employment or practice in this state;

(c) Be able to read and write English;

(d) Not have been convicted of a felony or any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of application;

(e) Not have had a commission as a notary public revoked during the 10-year period preceding the date of application;

(f) Not be disqualified under ORS 194.340 to receive a commission;

(g) Complete the course of study described in ORS 194.325; and

(h) Have passed the examination required under ORS 194.325.

(3) Before the Secretary of State may issue a commission as a notary public, the ap-

plicant shall execute an oath of office and submit it to the secretary.

(4) Upon the applicant's compliance with this section, the Secretary of State shall issue a commission as a notary public to the applicant for a term of four years.

(5) A commission as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees of this state.

(6) Each notary public may file with the Secretary of State a statement waiving the fees specified under ORS 194.400. If a notary public files the statement waiving the fees, the office of that notary public is not considered a lucrative office.

(7) The functions of a notary public are not considered official duties under Article III, section 1, of the Oregon Constitution.

(8) A commission as a notary public is not considered a commission under Article V, section 18, of the Oregon Constitution. [2013 c.219 §20]

194.320 [Amended by 1981 c.11 §5; repealed by 1989 c.976 §37]

194.325 Examination of notary public.

(1) An applicant for a commission as a notary public must pass an examination administered by the Secretary of State or an entity approved by the secretary. The examination must be based on the course of study described in subsection (3) of this section.

(2) Before taking the examination required under subsection (1) of this section, an applicant for a commission as a notary public who does not hold a commission in this state must complete a course of study offered by the Secretary of State or an entity approved by the secretary.

(3) The Secretary of State or an entity approved by the secretary shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures and ethics relevant to notarial acts. [2013 c.219 §21]

194.330 [1983 c.393 §23; 1989 c.976 §30; 1993 c.66 §11; repealed by 2013 c.219 §45 (194.415 enacted in lieu of 194.330)]

194.335 [1989 c.976 §32; repealed by 2013 c.219 §61]

194.340 Grounds to deny, revoke, suspend or condition commission of notary public. (1) The Secretary of State may deny, revoke, suspend or impose a condition on a commission as a notary public for:

(a) Failure of the applicant or notary public to comply with any provision of this chapter, any rule adopted by the Secretary of State under this chapter or any other

state or federal law relating to any duty required of a notary public;

(b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary;

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

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

(e) Use of false or misleading advertising or representation by the notary public representing that the notary public has powers, qualifications, rights or privileges that the notary public does not have, including the power to counsel on immigration matters;

(f) Denial, revocation, suspension or conditioning of a commission as a notary public in another state; or

(g) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(2) If the Secretary of State denies, revokes, suspends or imposes a condition on a commission as a notary public, opportunity for hearing shall be accorded as provided in ORS chapter 183 for a contested case.

(3) The authority of the Secretary of State to deny, revoke, suspend or impose a condition on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law. [2013 c.219 §22]

194.345 Database of notaries public. The Secretary of State shall maintain an electronic database of notaries public:

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

(2) That indicates whether a notary public has notified the secretary that the notary public will be performing notarial acts with respect to electronic records. [2013 c.219 §23]

194.350 Prohibited acts. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give advice on legal matters or otherwise practice law;

(b) Act as an immigration consultant as defined in ORS 9.280 or an expert on immigration matters;

(c) Represent an individual in a judicial or administrative proceeding relating to im-

migration to the United States, United States citizenship or related matters; or

(d) Receive compensation for performing any of the activities listed in this subsection.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law, may not use the term "notario" or "notario publico."

(4)(a) A notary public, other than an attorney licensed to practice law, may not advertise or represent that the notary public may assist persons in drafting legal records, give advice on legal matters or otherwise practice law.

(b) If a notary public who is not an attorney licensed to practice law advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public shall include in the advertisement or representation, the following:

(A) A statement, or an alternate statement authorized or required by the Secretary of State, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."

(B) The fees for notarial acts specified under ORS 194.400.

(c) If the advertisement or representation is not in the form of broadcast media, print media or the Internet and does not permit inclusion of the statement required by this subsection because of size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) A notary public may not engage in the unauthorized practice of law.

(6) A notary public may not commit any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another or substantially injure another.

(7) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public. [2013 c.219 §24]

194.355 Validity of notarial acts. (1) Except as otherwise provided in ORS 194.225 (2), the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer.

(2) The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the law of this state other than this chapter or federal law.

(3) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. [2013 c.219 §25]

194.360 Rules. (1) Subject to ORS chapter 183, the Secretary of State may adopt rules to implement this chapter. Rules regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification.

(2) The rules may:

(a) Prescribe the manner of performing notarial acts regarding tangible and electronic records;

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

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

(d) Prescribe the process of granting, conditioning, denying, suspending or revoking a commission as a notary public and ensuring the trustworthiness of an individual holding a commission as a notary public;

(e) Include provisions to prevent fraud or mistake in the performance of notarial acts;

(f) Provide for the administration of the examination and the course of study under ORS 194.325; and

(g) Otherwise carry out the purposes of this chapter.

(3) In adopting, amending or repealing rules regarding the performance of notarial acts with respect to electronic records, the Secretary of State shall consider, so far as is consistent with this chapter:

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

(b) Standards, practices and customs of other jurisdictions that substantially enact the Revised Uniform Law on Notarial Acts; and

(c) The views of governmental officials and entities and other interested persons. [2013 c.219 §26]

194.365 Application fee. (1) To defray costs incurred by the Secretary of State to process the application made under ORS 194.315, each applicant for a commission as a notary public shall pay in advance to the secretary a nonrefundable application fee not to exceed \$40.

(2) Any fee received by the Secretary of State under subsection (1) of this section shall be deposited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in lieu of any fee charged under ORS 177.130. [2013 c.219 §28 (enacted in lieu of 194.020)]

194.370 Investigation of applicant; consent. (1) For purposes described in subsection (2) of this section, upon consent of the applicant for a commission as a notary public and upon request of the Secretary of State, the Department of State Police shall furnish to the secretary any information regarding the applicant that the department may have in its possession and any information to which the department may have access, including but not limited to the Law Enforcement Data System established in ORS 181.730.

(2) The department shall provide the information described in subsection (1) of this section to assist in:

(a) Verifying the identity of an applicant for a commission as a notary public; or

(b) Determining whether the applicant has been convicted of a felony or of a lesser offense incompatible with the duties of a notary public.

(3) For purposes of receiving the information described in this section, the Secretary of State is a criminal justice agency under ORS 181.010 to 181.560 and 181.715 to 181.730 and the rules adopted under ORS 181.555.

(4) An individual applying for a commission as a notary public is considered, upon signing the application filed under ORS 194.315, to have given the consent necessary for purposes of subsection (1) of this section. [2013 c.219 §30 (enacted in lieu of 194.024)]

194.375 Protest of commercial paper. (1) A notary public may protest commercial paper if the notary public is:

(a) An officer or employee of a financial institution or trust company;

(b) An officer or employee of an investment company;

(c) An individual serving under the direct supervision of an officer or employee of a financial institution, trust company or investment company; or

(d) An active member of the Oregon State Bar, or an individual serving under the

direct supervision of an active member of the Oregon State Bar.

(2) Each notary public who protests commercial paper shall take the actions required by ORS 73.0505.

(3) A notary public may not protest commercial paper owned or held for collection by a financial institution, trust company or investment company if the notary public is individually a party to the commercial paper.

(4) As used in this section:

(a) "Financial institution" has the meaning given that term in ORS 706.008.

(b) "Investment company" means an entity that is registered as an investment company under the federal investment company laws.

(c) "Trust company" has the meaning given that term in ORS 706.008. [2013 c.219 §32 (enacted in lieu of 194.070)]

194.380 Record of protest; effect as evidence. Each notary public described in ORS 194.375 shall keep a record of all protests of commercial paper made by the notary public under ORS 73.0505. The record is competent evidence to prove notice of dishonor for purposes of ORS 73.0505. [2013 c.219 §34 (enacted in lieu of 194.090)]

194.385 Powers of notary public connected with corporation; limitations. (1) A notary public who is a shareholder, director, officer, employee, member or partner of a business entity may:

(a) Take the acknowledgment of any party to any written instrument executed to or by the business entity; or

(b) Administer an oath to any other shareholder, director, officer, employee, member or partner of the business entity or to any agent of the business entity.

(2) A notary public may not take the acknowledgment of an instrument executed to or by a business entity of which the notary public is a shareholder, director, officer, employee, member or partner, if the notary public is a party to the instrument, either individually or as a representative of the business entity.

(3) As used in this section:

(a) "Business entity" means a financial institution, trust company, corporation, professional corporation, cooperative, limited liability company, nonprofit corporation, partnership, limited liability partnership or limited partnership.

(b) "Financial institution" has the meaning given that term in ORS 706.008.

(c) "Trust company" has the meaning given that term in ORS 706.008. [2013 c.219 §36 (enacted in lieu of 194.100)]

194.390 Disposition of records on vacancy in office; penalty for failure to properly dispose of records or for destroying or altering records. (1) Whenever the office of a notary public becomes vacant, the record referred to in ORS 194.380 kept by the notary public, together with all the papers relating to such record, shall be delivered to the Secretary of State.

(2) A former notary public, or an individual designated personal representative or administrator for a deceased notary public, shall deliver the record and papers described in subsection (1) of this section to the Secretary of State not later than three months after the date the office becomes vacant or after the individual is designated personal representative or administrator.

(3) Violation of subsection (2) of this section is subject to a fine of not more than \$500 for each violation.

(4) If any individual knowingly destroys, defaces, materially alters or conceals any record or paper of a notary public, the individual is subject to a fine of not more than \$500 and shall be liable to an action for damages by the party injured. [2013 c.219 §38 (enacted in lieu of 194.130)]

194.395 Recovery and disposition of fines. All fines imposed under ORS 194.390 shall be recovered in a civil action in any court having jurisdiction of the action in the county where the notary public resides, is employed or is carrying on business. One-half of the amount of the fine shall be paid to the person bringing the action and one-half shall be paid to the State Treasurer to be deposited in the General Fund. [2013 c.219 §40 (enacted in lieu of 194.150)]

194.400 Fees for notarial acts; collection of fees. (1) The fee that a notary public may charge for performing a notarial act may not exceed \$10 per notarial act.

(2) A notary public may charge an additional fee for traveling to perform a notarial act if:

(a) The notary public explains to the person requesting the notarial act that the fee is in addition to a fee specified in subsection (1) of this section and is in an amount not determined by law; and

(b) The person requesting the notarial act agrees in advance upon the amount of the additional fee.

(3) If a notary public charges fees under this section for performing notarial acts, the notary public shall display, in English, a list of the fees the notary public will charge.

(4) A notary public who is employed by a private entity may enter into an agreement with the entity under which fees collected by

the notary public under this section are collected by and accrue to the entity.

(5) A public body as defined in ORS 174.109 may collect the fees described in this section for notarial acts performed in the course of employment by notaries public who are employed by the public body. [2013 c.219 §42 (enacted in lieu of 194.164)]

194.405 Action for damages or injunction; attorney fees and costs; employer's liability. In addition to other remedies provided by law:

(1) A person injured by a violation of ORS 194.350 may bring an individual action in an appropriate court to enjoin the violation and may also recover actual damages or \$200, whichever is greater. The court or the jury, as the case may be, may award punitive damages and the court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(2) If the person has not brought a civil action under subsection (1) of this section, the Secretary of State or Attorney General may bring a civil action on behalf of a person injured by a violation of ORS 194.350 to enjoin the violation and may also recover actual damages or \$200, whichever is greater. The court may provide such equitable relief as it deems necessary or proper. In addition to any other remedies awarded by the court, the prevailing party may be awarded attorney fees and costs and disbursements, at trial and on appeal.

(3) An employer of a notary public is liable to the notary public for all damages recovered from the notary public as a result of a violation of any provision of this chapter or any rule adopted by the Secretary of State under this chapter that was coerced by threat of the employer, if the threat, such as that of demotion or dismissal, was made in reference to the particular notarial act that was the subject of the action.

(4) An action under this section must be commenced within six years after the cause of action has accrued. [2013 c.219 §44 (enacted in lieu of 194.200)]

194.410 [Amended by 1963 c.428 §1; repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.410)]

194.415 Attorney General to investigate or prosecute violation; payment of expenses. (1) If the Secretary of State believes that an alleged violation of any provision of this chapter is not being investigated or prosecuted, the secretary may direct the Attorney General to take full charge of the investigation or prosecution.

(2) If directed under subsection (1) of this section, the Attorney General shall take full charge of the investigation or prosecution and the provisions of ORS 180.070, 180.080 and 180.090 shall apply.

(3) Notwithstanding ORS 180.070 (3), expenses associated with the Attorney General's investigation or prosecution shall be paid from the Operating Account under ORS 56.041. [2013 c.219 §46 (enacted in lieu of 194.330)]

194.420 [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.420)]

194.425 Disposition of moneys. All moneys received by the Secretary of State under this chapter shall be paid into the State Treasury and credited to the Operating Account under ORS 56.041. [2013 c.219 §48 (enacted in lieu of 194.700)]

194.430 [Repealed by 1977 c.404 §2 (194.500 to 194.580 enacted in lieu of 194.430)]

194.435 Uniformity of application and construction. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact the Revised Uniform Law on Notarial Acts. [2013 c.219 §49]

194.440 Relation to Electronic Signatures in Global and National Commerce Act. (1) Except as provided in subsection (2) of this section, this chapter modifies, limits and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.

(2) This chapter does not:

(a) Modify, limit or supersede section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c); or

(b) Authorize electronic delivery of any of the notices described in section 103(b) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7003(b). [2013 c.219 §50]

(Transitional provisions relating to Revised Uniform Law on Notarial Acts)

Note: Sections 58, 59 and 62, chapter 219, Oregon Laws 2013, provide:

Sec. 58. Notary public commission in effect. (1) A commission as a notary public in effect on the operative date specified in section 64 of this 2013 Act [September 1, 2013] continues until the date of expiration of the commission.

(2) A notary public who applies for a commission as a notary public on or after the operative date specified in section 64 of this 2013 Act is subject to and shall comply with this 2013 Act.

(3) A notary public who holds a commission as a notary public on the operative date specified in section 64 of this 2013 Act, in performing notarial acts on or after the operative date specified in section 64 of this

2013 Act, shall comply with this 2013 Act. [2013 c.219 §58]

Sec. 59. Savings clause. Nothing in this 2013 Act affects the validity or effect of a notarial act performed before the operative date specified in section 64 of this 2013 Act [September 1, 2013]. [2013 c.219 §59]

Sec. 62. Applicability. This 2013 Act applies to a notarial act performed on or after the operative date specified in section 64 of this 2013 Act [September 1, 2013]. [2013 c.219 §62]

194.500 [1977 c.404 §11 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.505 [1983 c.393 §2; 1989 c.976 §33; 1997 c.185 §1; repealed by 2013 c.219 §61]

194.510 [1977 c.404 §10 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.515 [1983 c.393 §3; 1993 c.545 §125; 1997 c.185 §2; 1999 c.59 §49; 2003 c.533 §1; 2009 c.338 §1; repealed by 2013 c.219 §61]

194.520 [1977 c.404 §3 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.525 [1983 c.393 §4; repealed by 2013 c.219 §61]

194.530 [1977 c.404 §4 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.535 [1983 c.393 §5; repealed by 2013 c.219 §61]

194.540 [1977 c.404 §5 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.545 [1983 c.393 §6; repealed by 2013 c.219 §61]

194.550 [1977 c.404 §6 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.555 [1983 c.393 §7; repealed by 2013 c.219 §61]

194.558 [2007 c.63 §4; repealed by 2013 c.219 §61]

194.560 [1977 c.404 §7 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.565 [1983 c.393 §8; repealed by 2013 c.219 §61]

194.570 [1977 c.404 §8 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.575 [1983 c.393 §9; repealed by 2013 c.219 §61]

194.578 [1999 c.333 §2; 2007 c.70 §53; repealed by 2013 c.219 §61]

194.580 [1977 c.404 §9 (enacted in lieu of 45.125, 93.415, 93.430, 93.490, 93.500, 93.510, 93.520, 194.410, 194.420 and 194.430); repealed by 1983 c.393 §26]

194.582 [1999 c.718 §5; 2001 c.535 §29; repealed by 2013 c.219 §61]

194.585 [1983 c.393 §11; repealed by 2013 c.219 §61]

194.595 [1983 c.393 §12; repealed by 2013 c.219 §61]

194.700 [1983 c.393 §15; 1993 c.66 §9; repealed by 2013 c.219 §47 (194.425 enacted in lieu of 194.700)]

UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

194.800 Short title. ORS 194.800 to 194.835 may be cited as the Uniform Unsworn Foreign Declarations Act. [2013 c.218 §1]

Note: 194.800 to 194.835 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 194 or any series therein by leg-

islative action. See Preface to Oregon Revised Statutes for further explanation.

194.805 Definitions. As used in ORS 194.800 to 194.835:

(1) "Boundaries of the United States" means the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States.

(2) "Law" includes the federal or a state Constitution, a federal or state statute, a judicial decision or order, a rule of court, an executive order and an administrative rule, regulation or order.

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

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

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

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

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

(6) "Sworn declaration" means a declaration in a signed record given under oath. "Sworn declaration" includes a sworn statement, verification, certificate and affidavit.

(7) "Unsworn declaration" means a declaration in a signed record that is not given under oath, but is given under penalty of perjury. [2013 c.218 §2]

Note: See note under 194.800.

194.810 Applicability. (1) ORS 194.800 to 194.835 apply to an unsworn declaration by a declarant who at the time of making the declaration is physically located outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States.

(2) ORS 194.800 to 194.835 do not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe. [2013 c.218 §3]

Note: See note under 194.800.

194.815 Validity of unsworn declaration. (1) Except as otherwise provided in subsection (2) of this section, if a law of this state requires or permits use of a sworn declaration, an unsworn declaration meeting the

requirements of ORS 194.800 to 194.835 has the same effect as a sworn declaration.

(2) ORS 194.800 to 194.835 do not apply to:

- (a) A deposition;
- (b) An oath of office;

(c) An oath required to be given before a specified official other than a notary public;

(d) A declaration to be recorded pursuant to the recording laws of this state, including but not limited to ORS 205.130 and ORS chapters 92, 93, 94, 100 and 105; or

(e) An oath required by ORS 113.055 (1). [2013 c.218 §4]

Note: See note under 194.800.

194.820 Required medium. If a law of this state requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium. [2013 c.218 §5]

Note: See note under 194.800.

194.825 Form of unsworn declaration. An unsworn declaration under ORS 194.800 to 194.835 must be in substantially the following form:

I declare under penalty of perjury under the law of Oregon that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the _____ day of _____,
_____, at _____, (date)
(month) (year) (city or other location, and
state)

(country)

(printed name)

(signature)

[2013 c.218 §6]

Note: See note under 194.800.

194.830 Uniformity of application and construction. In applying and construing ORS 194.800 to 194.835, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it. [2013 c.218 §7]

Note: See note under 194.800.

194.835 Relation to Electronic Signatures in Global and National Commerce Act. ORS 194.800 to 194.835 modify, limit and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but do not modify, limit or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b). [2013 c.218 §8]

Note: See note under 194.800.

PENALTIES

194.980 Civil penalties; factors; notice; hearing; rules. (1) In addition to any other penalty provided by law, the Secretary of State may impose a civil penalty for each violation of any provision of this chapter or any rule adopted by the secretary under this chapter. The civil penalty shall be in the amount adopted under subsection (2) of this section, plus any costs of service or recording costs.

(2)(a) The Secretary of State by rule shall establish the amount of civil penalty that may be imposed for a particular violation. A civil penalty may not exceed \$1,500 per violation.

(b) In imposing a penalty authorized by this section, the secretary may consider the following factors:

(A) The past history of the individual incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(B) Any prior violations.

(C) The gravity and magnitude of the violation.

(D) Whether the violation was repeated or continuous.

(E) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.

(F) Any relevant rule of the secretary.

(G) The notary public's cooperativeness and efforts to correct the violation.

(c) The penalty imposed under this section may be paid upon those terms and conditions as the secretary determines to be proper and consistent with the public benefit. Upon request of the notary public incurring the penalty, the secretary shall consider evidence of the economic and financial condition of the notary public in determining whether a penalty shall be paid.

(3) Imposition or payment of a civil penalty under this section is not a bar to any action described in ORS 194.405, to a criminal proceeding or to a proceeding under ORS 194.340.

(4) A civil penalty may not be imposed under this section until the notary public incurring the penalty has been given notice in writing from the Secretary of State specifying the violation. The notice is in addition to the notice required under ORS 183.745 and shall be served in the same manner as the notice required under ORS 183.745.

(5)(a) After initial notice as provided in subsection (4) of this section, a civil penalty may be imposed in the manner provided in ORS 183.745.

(b) The Secretary of State may delegate to a hearings officer appointed by the secretary, upon such conditions as deemed necessary, all or part of the authority to conduct hearings required under ORS 183.745.

(6) Notwithstanding ORS 180.070 (3), expenses incurred by the Secretary of State or Attorney General under subsections (1) to (5) of this section or under ORS 194.405 (2) shall be paid from the Operating Account under ORS 56.041.

(7) All civil penalties and costs recovered under this section shall be paid into the Operating Account under ORS 56.041. [1989 c.976 §28; 1991 c.734 §11; 1993 c.66 §12; 2013 c.219 §51]

194.985 Official Warning to Cease Violation. In lieu of a civil penalty imposed under ORS 194.980, the Secretary of State may deliver a written Official Warning to Cease Violation to any notary public whose actions are judged by the secretary to be a violation of any provision of this chapter or

any rule adopted by the secretary under this chapter. [1989 c.976 §27; 2013 c.219 §52]

194.990 Criminal penalties. (1)(a) A notary public who knowingly performs or fails to perform any act prohibited or mandated respectively by this chapter, or rules adopted by the Secretary of State under this chapter, is guilty of a Class B misdemeanor.

(b) Any individual not a notary public who knowingly acts as or otherwise impersonates a notary public is guilty of a Class B misdemeanor.

(c) Any person who knowingly obtains, conceals, defaces or destroys the official seal, journal or official records of a notary public is guilty of a Class B misdemeanor.

(d) Any person who knowingly solicits, coerces or in any way influences a notary public to commit a violation of any provision of this chapter, or any rule adopted by the secretary under this chapter, is guilty of a Class B misdemeanor.

(2) The penalties described in subsection (1) of this section are in addition to other remedies provided by law.

(3) The clerk of the court in which a conviction under any provision of subsection (1) of this section is had shall transmit to the Secretary of State a duly certified copy of the judgment, which is sufficient grounds for revocation of the commission of the convicted notary public. [Amended by 1967 c.541 §21; 1989 c.976 §34; 2013 c.219 §53]

MISCELLANEOUS MATTERS
