

Amendment No. 735

Assembly Amendment to Senate Bill No. 92 First Reprint (BDR 19-414)

Proposed by: Assembly Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 92 (§§ 12, 13, 14, 15, 17).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

MSM



Date: 5/14/2009

S.B. No. 92—Makes various changes relating to the regulation of notaries public.
(BDR 19-414)



SENATE BILL NO. 92—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 15, 2008

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the regulation of notaries public.
(BDR 19-414)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for
Term of Imprisonment in County or City Jail or Detention
Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to notaries public; providing for electronic notarization;
authorizing the Secretary of State to appoint electronic notaries public;
revising provisions for the appointment of resident and nonresident
notaries public; providing penalties; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Secretary of State is authorized to appoint notaries public in this State. (NRS 240.010) **Sections 3-26** of this bill enact the Electronic Notary Public Authorization Act, which authorizes the Secretary of State to appoint electronic notaries public who will be authorized to notarize electronic documents.

Sections 2 and 5-10 of this bill set forth various definitions relating to electronic notarization. **Section 12** of this bill requires that a person seeking appointment as an electronic notary public already be a notary public in Nevada and successfully complete a course of study on electronic notarization, enter into a bond, pay an application fee and take an oath as a public officer. **Section 14** of this bill provides that the initial term of appointment for an electronic notary public is 2 years and any subsequent term of appointment is 4 years. **Section 16** of this bill states that an electronic notary public may perform the same notarial acts as a notary public except for certifying copies and noting protests of a negotiable instrument, and **section 17** of this bill sets forth the fees he may charge. **Section 18** of this bill prohibits the electronic notarization of a will, codicil, testamentary trust or any document related to transactions governed by certain sections of the Uniform Commercial Code, as prohibited by the Uniform Electronic Transactions Act, codified as chapter 719 of NRS. (NRS 719.200) **Section 19** of this bill sets forth the specific requirements that distinguish the notarization of an electronic document from a nonelectronic notarization, including the use of an electronic signature and an electronic seal. **Sections 21 and 22** of this bill provide that an electronic notary public must safeguard his electronic signature and any software or device used in producing that signature. **Section 23** of this bill makes it a gross misdemeanor to: (1) wrongfully make or distribute software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed; or (2) wrongfully obtain, conceal, damage or destroy the software or hardware used by an electronic notary public. **Section 25** of

25 this bill authorizes the Secretary of State to promulgate regulations to carry out the provisions
26 of the Electronic Notary Public Authorization Act. **Section 26** of this bill provides that all the
27 laws which apply to regular notaries public apply to electronic notaries public unless a
28 provision of the Electronic Notary Public Authorization Act conflicts, in which case the latter
29 controls.

30 Existing law prohibits a person who has been convicted of a crime of moral turpitude or a
31 person who does not possess his civil rights from being appointed as a notary public. (NRS
32 240.010, 240.015) **Section 29** of this bill authorizes the Secretary of State to appoint as a
33 notary public a person who was convicted of ~~to crime of moral turpitude~~ **certain crimes** if:
34 (1) more than 10 years have passed since the end of his sentence, parole or probation; (2) he
35 has made restitution, if applicable; ~~and~~ (3) he has had his civil rights restored ~~to~~; **and (4)**
36 **the crime for which he was convicted was not one of an enumerated list of crimes**
37 **involving dishonesty or identity theft.**

38 Existing law allows a resident of an adjoining state to be appointed as a notary public in
39 Nevada if he maintains or works for a business in Nevada. (NRS 240.015) **Sections 30-32** of
40 this bill amend the requirements for a nonresident notary public to further require a copy of a
41 state business license and any other business license required by a local government where the
42 business is located as proof of employment or self-employment in Nevada when applying for
43 an appointment or the renewal of an appointment as a nonresident notary public.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 240 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 to 26, inclusive, of this act.

3 **Sec. 2. "Notarial record" means:**

4 **1. The journal that a notary public is required to keep pursuant to**
5 **NRS 240.120;**

6 **2. The journal that an electronic notary public is required to keep pursuant**
7 **to section 20 of this act; and**

8 **3. A document or other evidence retained by a notary public or an**
9 **electronic notary public to record the performance of a notarial act or an**
10 **electronic notarial act.**

11 **Sec. 3. Sections 3 to 26, inclusive, of this act may be cited as the Electronic**
12 **Notary Public Authorization Act.**

13 **Sec. 4. As used in sections 3 to 26, inclusive, of this act, unless the context**
14 **otherwise requires, the words and terms defined in sections 5 to 10, inclusive, of**
15 **this act have the meanings ascribed to them in those sections.**

16 **Sec. 5. "Electronic" means of or relating to technology having electrical,**
17 **digital, magnetic, wireless, optical, electromagnetic or similar capabilities.**

18 **Sec. 6. "Electronic document" means a document that is created,**
19 **generated, sent, communicated, received or stored by electronic means.**

20 **Sec. 7. "Electronic notarial act" means an act that an electronic notary**
21 **public of this State is authorized to perform. The term includes:**

22 **1. Taking an acknowledgment;**

23 **2. Administering an oath or affirmation;**

24 **3. Executing a jurat; and**

25 **4. Performing such other duties as may be prescribed by a specific statute.**

26 **Sec. 8. "Electronic notary public" means a person appointed by the**
27 **Secretary of State pursuant to sections 3 to 26, inclusive, of this act to perform**
28 **electronic notarial acts.**

29 **Sec. 9. "Electronic seal" means information within a notarized electronic**
30 **document that includes the name, jurisdiction and expiration date of the**

1 *appointment of an electronic notary public and generally includes the*
2 *information required to be set forth in a mechanical stamp pursuant to*
3 *NRS 240.040.*

4 **Sec. 10. “Electronic signature” means an electronic symbol or process**
5 **attached to or logically associated with an electronic document and executed or**
6 **adopted by a person with the intent to sign the electronic document.**

7 **Sec. 11. 1. The Secretary of State may appoint electronic notaries public**
8 **in this State.**

9 **2. The Secretary of State shall not appoint as an electronic notary public a**
10 **person who submits an application containing a substantial and material**
11 **misstatement or omission of fact.**

12 **3. An electronic notary public may cancel his appointment by submitting a**
13 **written notice to the Secretary of State.**

14 **4. It is unlawful for a person to:**

15 **(a) Represent himself as an electronic notary public appointed pursuant to**
16 **this section if he has not received a certificate of appointment from the Secretary**
17 **of State pursuant to section 12 of this act.**

18 **(b) Submit an application for appointment as an electronic notary public that**
19 **contains a substantial and material misstatement or omission of fact.**

20 **5. The Secretary of State may request that the Attorney General bring an**
21 **action to enjoin any violation of paragraph (a) of subsection 4.**

22 **Sec. 12. 1. Each person applying for appointment as an electronic notary**
23 **public must:**

24 **(a) At the time of application, be a notarial officer in this State and have**
25 **been a notarial officer in this State for not less than 4 years;**

26 **(b) Submit to the Secretary of State an electronic application pursuant to**
27 **subsection 2;**

28 **(c) Pay to the Secretary of State an application fee of \$50;**

29 **(d) Take and subscribe to the oath set forth in Section 2 of Article 15 of the**
30 **Constitution of the State of Nevada as if he were a public officer;**

31 **(e) Submit to the Secretary of State proof satisfactory to the Secretary of**
32 **State that he has successfully completed a course of study provided pursuant to**
33 **section 15 of this act; and**

34 **(f) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed**
35 **with the clerk of the county in which the applicant resides or, if the applicant is a**
36 **resident of an adjoining state, with the clerk of the county in this State in which**
37 **the applicant maintains a place of business or is employed. The applicant must**
38 **submit to the Secretary of State a certificate issued by the appropriate county**
39 **clerk which indicates that the applicant filed the bond required pursuant to this**
40 **paragraph.**

41 **2. The application for an appointment as an electronic notary public must**
42 **be submitted as an electronic document and must contain, without limitation, the**
43 **following information:**

44 **(a) The applicant’s full legal name, and the name to be used for**
45 **appointment, if different.**

46 **(b) The county in which the applicant resides.**

47 **(c) The electronic mail address of the applicant.**

48 **(d) A description of the technology or device, approved by the Secretary of**
49 **State, that the applicant intends to use to create his electronic signature in**
50 **performing electronic notarial acts.**

51 **(e) The electronic signature of the applicant.**

52 **(f) Any other information requested by the Secretary of State.**

1 3. An applicant for appointment as an electronic notary public who resides
2 in an adjoining state, in addition to the requirements set forth in subsections 1
3 and 2, must submit to the Secretary of State with his application:

4 (a) An affidavit setting forth the adjoining state in which he resides, his
5 mailing address and the address of his place of business or employment that is
6 located within the State of Nevada;

7 (b) A copy of his state business license issued pursuant to NRS 360.780 and
8 any business license required by the local government where his business is
9 located, if he is self-employed; and

10 (c) Unless the applicant is self-employed, a copy of the state business license
11 of his employer issued pursuant to NRS 360.780, a copy of any business license
12 of his employer that is required by the local government where the business is
13 located and an affidavit from his employer setting forth the facts which show that
14 the employer regularly employs the applicant at an office, business or facility
15 which is located within the State of Nevada.

16 4. In completing an application, bond, oath or other document necessary to
17 apply for appointment as an electronic notary public, an applicant must not be
18 required to disclose his residential address or telephone number on any such
19 document which will become available to the public.

20 5. The bond, together with the oath, must be filed and recorded in the office
21 of the county clerk of the county in which the applicant resides when he applies
22 for his appointment or, if the applicant is a resident of an adjoining state, with
23 the clerk of the county in this State in which the applicant maintains a place of
24 business or is employed. On a form provided by the Secretary of State, the county
25 clerk shall immediately certify to the Secretary of State that the required bond
26 and oath have been filed and recorded. Upon receipt of the application, fee and
27 certification that the required bond and oath have been filed and recorded, the
28 Secretary of State shall issue a certificate of appointment as an electronic notary
29 public to the applicant.

30 6. The term of an electronic notary public commences on the effective date
31 of the bond required pursuant to paragraph (f) of subsection 1. An electronic
32 notary public shall not perform an electronic notarial act after the effective date
33 of the bond unless he has been issued a certificate of appointment pursuant to
34 subsection 5.

35 7. Except as otherwise provided in this subsection, the Secretary of State
36 shall charge a fee of \$10 for each duplicate or amended certificate of
37 appointment which is issued to an electronic notary public. If the electronic
38 notary public does not receive an original certificate of appointment, the
39 Secretary of State shall provide a duplicate certificate of appointment without
40 charge if the electronic notary public requests such a duplicate within 60 days
41 after the date on which the original certificate was issued.

42 Sec. 13. 1. The bond required to be filed pursuant to section 12 of this act
43 must be executed by the person applying to become an electronic notary public as
44 principal and by a surety company qualified and authorized to do business in this
45 State. The bond must be made payable to the State of Nevada and be conditioned
46 to provide indemnification to a person determined to have suffered damage as a
47 result of an act by the electronic notary public which violates a provision of NRS
48 240.001 to 240.169, inclusive, or sections 3 to 26, inclusive, of this act. The surety
49 company shall pay a final, nonappealable judgment of a court of this State that
50 has jurisdiction, upon receipt of written notice of final judgment. The bond may
51 be continuous, but regardless of the duration of the bond, the aggregate liability
52 of the surety does not exceed the penal sum of the bond.

2. If the penal sum of the bond is exhausted, the surety company shall notify the Secretary of State in writing within 30 days after its exhaustion.

3. The surety bond must cover the period of the appointment of the electronic notary public, except when a surety is released.

4. A surety on a bond filed pursuant to section 12 of this act may be released after the surety gives 30 days' written notice to the Secretary of State and the electronic notary public, but the release does not discharge or otherwise affect a claim filed by a person for damage resulting from an act of the electronic notary public which is alleged to have occurred while the bond was in effect.

5. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer covered by a surety bond as required by this section and section 12 of this act or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the bond will be released or pursuant to subsection 2 that the penal sum of the bond is exhausted, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment will be suspended by operation of law until another surety bond is filed in the same manner and amount as the bond being terminated.

6. The Secretary of State may reinstate the appointment of an electronic notary public whose appointment has been suspended pursuant to subsection 5 if the electronic notary public, before his current term of appointment expires:

(a) Submits to the Secretary of State:

(1) An application for an amended certificate of appointment as an electronic notary public; and

(2) A certificate issued by the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, the county in this State in which the applicant maintains a place of business or is employed, which indicates that the applicant filed a new surety bond with the clerk; and

(b) Pays to the Secretary of State a fee of \$10.

Sec. 14. 1. The initial term of appointment as an electronic notary public is 2 years. Each term of appointment as an electronic notary public subsequent to the initial term is 4 years.

2. The appointment of an electronic notary public is suspended by operation of law when the electronic notary public is no longer appointed as a notary public in this State. If the appointment of an electronic notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the electronic notary public in writing that his appointment as an electronic notary public will be suspended by operation of law until he is appointed as a notary public in this State.

3. If, at any time during his appointment, an electronic notary public changes his electronic mail address, county of residence, name, electronic signature or the technology or device used to create his electronic signature, the electronic notary public shall, within 10 days after making the change, submit to the Secretary of State:

(a) An electronic document, signed with the electronic signature submitted by the electronic notary public pursuant to subsection 2 of section 12 of this act, that includes the change of information; and

(b) A fee of \$10.

Sec. 15. 1. Except as otherwise provided in subsection 2, an applicant for appointment as an electronic notary public must successfully:

(a) Complete a course of study that is in accordance with the requirements of subsection 5; and

(b) Pass an examination at the completion of the course.

2. The following persons must successfully complete a course of study as required pursuant to subsection 1:

(a) A person applying for his first appointment as an electronic notary public;

(b) A person renewing his appointment as an electronic notary public if his appointment as an electronic notary public has been expired for a period of more than 1 year; and

(c) A person renewing his appointment as an electronic notary public if, during the 4 years immediately preceding his application for renewal, the Secretary of State took action against the person pursuant to NRS 240.150 for failing to comply with any provision of this chapter or any regulations adopted pursuant thereto.

↳ A person renewing his appointment as an electronic notary public need not successfully complete a course of study as required pursuant to subsection 1 if his appointment as an electronic notary public has been expired for a period of 1 year or less.

3. A course of study required to be completed pursuant to subsection 1 must:

(a) Include at least 3 hours of instruction;

(b) Provide instruction in electronic notarization, including, without limitation, notarial law and ethics, technology and procedures;

(c) Include an examination of the course content;

(d) Comply with the regulations adopted pursuant to section 25 of this act; and

(e) Be approved by the Secretary of State.

4. The Secretary of State may, with respect to a course of study required to be completed pursuant to subsection 1:

(a) Provide such a course of study; and

(b) Charge a reasonable fee to each person who enrolls in such a course of study.

5. A course of study provided pursuant to this section must satisfy the criteria set forth in subsection 3 and comply with the requirements set forth in the regulations adopted pursuant to section 25 of this act.

6. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 4 in the Notary Public Training Fund created pursuant to NRS 240.018.

Sec. 16. A person appointed as an electronic notary public pursuant to sections 3 to 26, inclusive, of this act may, during normal business hours, perform the following electronic notarial acts for a person who requests the electronic notarial act and tenders the appropriate fee:

1. Taking an acknowledgment;

2. Executing a jurat; and

3. Administering an oath or affirmation.

Sec. 17. 1. An electronic notary public may charge the following fees and no more:

(a) For taking an acknowledgment, for each signature\$10

(b) For executing a jurat, for each signature.....\$10

(c) For administering an oath or affirmation without a signature\$10

2. An electronic notary public shall not charge a fee to perform a service unless he is authorized to charge a fee for such a service pursuant to this section.

3. All fees prescribed in this section are payable in advance, if demanded.

4. An electronic notary public may charge an additional fee for traveling to perform an electronic notarial act if:

1 (a) The person requesting the electronic notarial act asks the electronic
2 notary public to travel;

3 (b) The electronic notary public explains to the person requesting the
4 electronic notarial act that the fee for travel is in addition to the fee authorized in
5 subsection 1 and is not required by law;

6 (c) The person requesting the electronic notarial act agrees in advance upon
7 the hourly rate that the electronic notary public will charge for the additional fee
8 for travel; and

9 (d) The additional fee for travel does not exceed:

10 (1) If the person requesting the electronic notarial act asks the electronic
11 notary public to travel between the hours of 6 a.m. and 7 p.m., \$10 per hour.

12 (2) If the person requesting the electronic notarial act asks the electronic
13 notary public to travel between the hours of 7 p.m. and 6 a.m., \$25 per hour.

14 ➤ The electronic notary public may charge a minimum of 2 hours for such travel
15 and shall charge on a pro rata basis after the first 2 hours.

16 5. An electronic notary public is entitled to charge the amount of the
17 additional fee for travel agreed to in advance by the person requesting the
18 electronic notarial act pursuant to subsection 4 if:

19 (a) The person requesting the electronic notarial act cancels his request after
20 the electronic notary public begins his travel to perform the requested electronic
21 notarial act.

22 (b) The electronic notary public is unable to perform the requested electronic
23 notarial act as a result of the actions of the person who requested the electronic
24 notarial act or any other person who is necessary for the performance of the
25 electronic notarial act.

26 6. For each additional fee for travel that an electronic notary public
27 charges pursuant to subsection 4, the electronic notary public shall enter in the
28 journal that he keeps pursuant to section 20 of this act:

29 (a) The amount of the fee; and

30 (b) The date and time that the electronic notary public began and ended such
31 travel.

32 7. A person who employs an electronic notary public may prohibit the
33 electronic notary public from charging a fee for an electronic notarial act that
34 the electronic notary public performs within the scope of his employment. Such a
35 person shall not require the electronic notary public whom he employs to
36 surrender to him all or part of a fee charged by the electronic notary public for
37 an electronic notarial act performed outside the scope of his employment.

38 **Sec. 18.** 1. An electronic notary public shall not willfully electronically
39 notarize the signature or electronic signature of a person unless the person is in
40 the presence of the electronic notary public at the time of notarization and:

41 (a) Is known to the electronic notary public; or

42 (b) If unknown to the electronic notary public, provides a credible witness or
43 documentary evidence of identification to the electronic notary public.

44 2. A person who:

45 (a) Violates the provisions of subsection 1; or

46 (b) Aids and abets an electronic notary public to commit a violation of
47 subsection 1,

48 ➤ is guilty of a gross misdemeanor.

49 3. An electronic notary public shall not electronically notarize any
50 electronic document related to the following:

51 (a) A will, codicil or testamentary trust; and

1 (b) Any transaction governed by the Uniform Commercial Code other than
2 NRS 104.1306, 104.2101 to 104.2725, inclusive, and 104A.2101 to 104A.2532,
3 inclusive.

4 4. An appointment as an electronic notary public pursuant to sections 3 to
5 26, inclusive, of this act does not authorize the electronic notary public to
6 perform notarial acts in another state.

7 Sec. 19. An electronic notarial act must be evidenced by the following,
8 which must be attached to or logically associated with the electronic document
9 that is the subject of the electronic notarial act and which must be immediately
10 perceptible and reproducible:

11 1. The electronic signature of the electronic notary public;

12 2. The electronic seal of the electronic notary public; and

13 3. The wording of a notarial certificate pursuant to NRS 240.1655, 240.166
14 to 240.167, inclusive, 240.1685 or 240.169.

15 Sec. 20. 1. An electronic notary public shall keep a journal of each
16 electronic notarial act which includes, without limitation, the requirements of
17 subsections 1 and 2 of NRS 240.120.

18 2. The Secretary of State may suspend the appointment of an electronic
19 notary public who fails to produce any journal entry within 10 days after receipt
20 of a request from the Secretary of State.

21 3. Upon resignation, revocation or expiration of an appointment as an
22 electronic notary public, all notarial records required pursuant to this chapter
23 must be delivered to the Secretary of State.

24 Sec. 21. 1. The electronic signature and electronic seal of an electronic
25 notary public must be used only for the purposes of performing electronic
26 notarial acts.

27 2. An electronic notary public shall safeguard his electronic signature, the
28 electronic seal and all notarial records maintained by the electronic notary public
29 as follows:

30 (a) When not in use, the electronic notary public shall keep the electronic
31 signature, electronic seal and all notarial records secure, under the exclusive
32 control of the electronic notary public and protected by a password where
33 applicable.

34 (b) An electronic notary public shall not permit his electronic signature or
35 electronic seal to be used by any other person.

36 (c) An electronic notary public shall not surrender or destroy his notarial
37 records except as otherwise required by the order of a court or as allowed
38 pursuant to this chapter or any regulations adopted pursuant thereto.

39 (d) Except as otherwise provided in subsection 3, an electronic notary public,
40 within 10 days after discovering that his electronic signature or electronic seal
41 has been stolen, lost, damaged or otherwise rendered incapable of affixing a
42 legible image, shall:

43 (1) Inform the appropriate law enforcement agency in the case of theft or
44 vandalism; and

45 (2) Notify the Secretary of State in writing, including, without limitation,
46 a signature using the name on the certificate of appointment issued pursuant to
47 subsection 5 of section 12 of this act.

48 3. An electronic notary public shall take reasonable steps to maintain the
49 technology or device used to create his electronic signature, and to ensure that
50 the technology or device has not been recalled, revoked, terminated or otherwise
51 rendered ineffective or insecure by the entity that created the technology or
52 device. Upon learning that the technology or device used to create his electronic

signature has been rendered ineffective or unsecure, an electronic notary public shall cease performing electronic notarial acts until:

(a) A new technology or device is acquired; and

(b) The electronic notary public sends an electronic notice to the Secretary of State that includes, without limitation, the information required pursuant to paragraphs (d) and (e) of subsection 2 of section 12 of this act relating to the new technology or device.

Sec. 22. 1. Except as otherwise provided in subsection 3, if an electronic notary public dies or resigns during his appointment, or if the appointment of the electronic notary public is revoked or expires, the electronic notary public, the executor of his estate or his authorized representative, as appropriate, shall:

(a) Notify the Secretary of State of the resignation or death; and

(b) Erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature.

2. Upon receipt of the notice required by subsection 1, the Secretary of State shall cancel the appointment of the electronic notary public, effective on the date on which the notice was received.

3. A former electronic notary public whose previous appointment as an electronic notary public was not revoked and whose previous application for appointment as an electronic notary public was not denied is not required to erase, delete, destroy or otherwise render ineffective the technology or device used to create his electronic signature if he renews his appointment, using the same electronic signature, within 3 months after the expiration of his previous appointment as an electronic notary public.

Sec. 23. 1. A person who knowingly creates, manufactures or distributes software or hardware for the purpose of allowing a person to act as an electronic notary public without being appointed in accordance with sections 3 to 26, inclusive, of this act is guilty of a gross misdemeanor.

2. A person who wrongfully obtains, conceals, damages or destroys the technology or device used to create the electronic signature of an electronic notary public is guilty of a gross misdemeanor.

Sec. 24. 1. Except as otherwise provided in subsection 2, the Secretary of State shall, upon request, issue an authentication to verify that the electronic signature of the electronic notary public on an electronic document is genuine and that the electronic notary public holds the office indicated on the electronic document. The authentication must be:

(a) Signed by the Secretary of State; and

(b) In conformance with any relevant international treaties, agreements and conventions subscribed to by the Government of the United States, including, without limitation, the Hague Convention of October 5, 1961.

2. The Secretary of State shall not issue an authentication pursuant to subsection 1 if:

(a) The electronic document has not been electronically notarized in accordance with the provisions of this chapter and sections 3 to 26, inclusive, of this act; or

(b) The Secretary of State has reasonable cause to believe that the electronic document may be used to accomplish any fraudulent, criminal or unlawful purpose.

Sec. 25. The Secretary of State may adopt regulations to carry out the provisions of sections 3 to 26, inclusive, of this act.

Sec. 26. An electronic notary public shall comply with those provisions of NRS 240.001 to 240.169, inclusive, which are not inconsistent with sections 3 to 26, inclusive, of this act. To the extent that the provisions of NRS 240.001 to

240.169, inclusive, conflict with the provisions of sections 3 to 26, inclusive, of this act, the provisions of sections 3 to 26, inclusive, of this act control.

Sec. 27. NRS 240.001 is hereby amended to read as follows:

240.001 As used in NRS 240.001 to 240.169, inclusive, and sections 3 to 26, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 240.002 to 240.005, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 28. NRS 240.007 is hereby amended to read as follows:

240.007 1. Except as otherwise provided in ~~subsection 2,~~ subsections 2 and 3, information and documents filed with or obtained by the Secretary of State pursuant to NRS 240.001 to 240.169, inclusive, and sections 2 to 26, inclusive, of this act are public information and are available for public examination.

2. Information and documents filed with or obtained by the Secretary of State pursuant to or in accordance with subsection 6 of NRS 240.010 are not public information and are confidential.

3. Except as otherwise provided in subsections ~~3~~ 4 and ~~4~~ 5 and in NRS 239.0115, information and documents obtained by or filed with the Secretary of State in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, and sections 2 to 26, inclusive, of this act are not public information and are confidential.

~~3~~ 4. The Secretary of State may submit any information or evidence obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, and sections 2 to 26, inclusive, of this act to the appropriate district attorney for the purpose of prosecuting a criminal action.

~~4~~ 5. The Secretary of State may disclose any information or documents obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, and sections 2 to 26, inclusive, of this act to an agency of this State or a political subdivision of this State.

Sec. 29. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) Who ~~Except~~ , except as otherwise provided in subsection 6, ~~who~~ has been convicted of ~~it~~ ;

(1) A crime involving moral turpitude ~~it~~ ; or

(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses, robbery or any other crime involving misappropriation of the identity or property of another person or entity.

if if the Secretary of State is aware of such a conviction before he makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

3. A notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as a notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

5. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 4.

6. A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if he provides proof satisfactory to the Secretary of State that:

(a) More than 10 years have elapsed since the date of his release from confinement or the expiration of the period of his parole, probation or sentence, whichever is later;

(b) He has made complete restitution for his crime involving moral turpitude, if applicable; ~~and~~

(c) He possesses his civil rights ~~if~~; and

(d) The crime for which he was convicted is not one of the crimes enumerated in subparagraph (2) of paragraph (c) of subsection 2.

Sec. 30. NRS 240.015 is hereby amended to read as follows:

240.015 1. Except as otherwise provided in this section, a person appointed as a notary public must:

(a) During the period of his appointment, be a citizen of the United States or lawfully admitted for permanent residency in the United States as verified by the United States Citizenship and Immigration Services.

(b) Be a resident of this State.

(c) Be at least 18 years of age.

(d) Possess his civil rights.

2. If a person appointed as a notary public ceases to be lawfully admitted for permanent residency in the United States during his appointment, he shall, within 90 days after his lawful admission has expired or is otherwise terminated, submit to the Secretary of State evidence that he is lawfully readmitted for permanent residency as verified by the United States Citizenship and Immigration Services. If the person fails to submit such evidence within the prescribed time, his appointment expires by operation of law.

3. The Secretary of State may appoint a person who resides in an adjoining state as a notary public if the person:

(a) Maintains a place of business in the State of Nevada ~~if~~ ***that is licensed pursuant to NRS 360.780 and any applicable business licensing requirements of the local government where the business is located;*** or

(b) Is regularly employed at an office, business or facility located within the State of Nevada by an employer licensed to do business in this State.

➤ If such a person ceases to maintain a place of business in this State or regular employment at an office, business or facility located within this State, the Secretary of State may suspend his appointment. The Secretary of State may reinstate an appointment suspended pursuant to this subsection if the notary public submits to the Secretary of State, before his term of appointment as a notary public expires, ~~an affidavit which contains~~ the information required pursuant to subsection 2 of NRS 240.030.

Sec. 31. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time he submits his application, pay to the Secretary of State \$35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if he were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that he has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant ~~shall~~ **must** submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with his application:

(a) An affidavit setting forth the adjoining state in which he resides, his mailing address and the address of his place of business or employment that is located within the State of Nevada; ~~and~~

(b) *A copy of his state business license issued pursuant to NRS 360.780 and any business license required by the local government where the business is located, if he is self-employed; and*

(c) Unless the applicant is self-employed, *a copy of the state business license of his employer, a copy of any business license of his employer that is required by the local government where the business is located and* an affidavit from his employer setting forth the facts ~~that~~ **which** show ~~that~~

~~(1) The employer is licensed to do business in the State of Nevada; and~~

~~(2) The~~ **that the** employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when he applies for his appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless he has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 32. NRS 240.031 is hereby amended to read as follows:

240.031 A notary public who is a resident of an adjoining state shall submit to the Secretary of State annually, within 30 days before the anniversary date of his appointment as a notary public, ~~an affidavit containing~~ **a copy of the state**

1 *business license of his place of employment in the State of Nevada issued*
2 *pursuant to NRS 360.780, a copy of any license required by the local government*
3 *where the business is located and* the information required pursuant to subsection 2
4 of NRS 240.030.

5 **Sec. 33.** NRS 240.147 is hereby amended to read as follows:

6 240.147 ~~{1-}~~ It is unlawful for a person to knowingly destroy, deface or
7 conceal a notarial record.

8 ~~{2. As used in this section, "notarial record" means:~~

9 ~~—(a) The journal that a notary public is required to keep pursuant to NRS~~
10 ~~240.120; and~~

11 ~~—(b) A document or other evidence retained by a notary public to record the~~
12 ~~performance of a notarial act.}~~

13 **Sec. 34.** This act becomes effective on July 1, 2009.