

SPECIAL ADOPTION

TREASURY—GENERAL

(a)

DIVISION OF REVENUE AND ENTERPRISE SYSTEMS

New Jersey Notary Public Rules

Specially Adopted and Concurrently Proposed New Rules: N.J.A.C. 17:50-1

Specially Adopted and Concurrently Proposed New Rules

Authorized: September 15, 2021, by Elizabeth Maher Muoio,
New Jersey State Treasurer.

Filed: September 16, 2021, as R.2021 d.119.

Authority: P.L. 2021, c. 179 (N.J.S.A. 52:7-10 et seq.).

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Concurrent Proposal Number: PRN 2021-103.

Effective Date: September 16, 2021.

Expiration Date: March 16, 2023.

Comments may be submitted by December 17, 2021, through email
to: <https://www.nj.gov/treasury/assets/contact/contact-treascomments.shtml>

or by mail to:

Peter Lowicki, Deputy Director for Business Services
PO Box 453
Trenton, NJ 08646
Attn: Rule Comments

The agency proposal is as follows:

Summary

N.J.A.C. 17:50-1 is adopted pursuant to section 19 of P.L. 20201, c. 179 (N.J.S.A. 52:7-10 et seq.), the New Jersey Law on Notarial Act (Act). Most of the provisions at P.L. 2021, c. 179 are effective 90 days after July 22, 2021, the date Governor Murphy signed the Act into law.

Pursuant to the Act, this subchapter shall become effective upon acceptance for filing by the Office of Administrative Law. The specially adopted new rules shall be effective for a period not to exceed 18 months from the date of filing of the new rules, that is, until March 16, 2023. A concurrent proposal is also being filed under the usual Administrative Procedure Act procedures to make the rules permanent.

The office of notary public (office) is a vital public function. Notaries public are called upon to perform many valuable services for New Jersey's business, legal, and financial communities. Effective notary services help to ensure that documents are properly executed, that facts are duly certified, and, above all, that the public is protected from fraud. Notarization is essential for many official documents, including mortgages, deeds, contracts, and various corporate transactions.

The new rules focus on the core aspects of the office and notarial practice including:

- Qualifications for the office;
- Commissioning of notaries public;
- Requirements for:
 - o Performance of notarial acts;
 - o Identification of individuals involved in notarial acts;
 - o Copy certification;
 - o Use of communications technology; and
 - o Electronic notarizations; and
- Criteria for refusal to perform a notarial service.

Collectively, the new rules will help to streamline the commissioning process, clarify and expand upon the requirements for conducting notarial acts, and provide for the use of new technologies for notarization. Further, the new rules will enhance the transparency, integrity, and accountability of the office by mandating detailed journal entries. The new rules will, in turn, lead to improved notarial service levels Statewide, place New Jersey

on a strong footing in the practice space nationally, and bolster the reliability and integrity of notarial practices in general. The ultimate beneficiaries of these advancements will be New Jersey citizens and the State's business and legal communities that rely on notarial services.

N.J.A.C. 17:50-1.1, Purpose, sets forth the purpose of the notary public rules.

N.J.A.C. 17:50-1.2, Definitions, incorporates certain terms defined at P.L. 2021, c. 179, and used in this subchapter, and defines additional terms for legal and technical implementation of the new law, including definitions for "notarial journal" and "verification on oath or affirmation."

N.J.A.C. 17:50-1.3, Qualifications for office, scope of authority, and prohibited acts, details the qualifications necessary for commission as a notary public.

N.J.A.C. 17:50-1.4, Application procedures, sets forth the application process. The section covers: the informational contents of new and renewed applications, the method of filing (online), the term of new and renewed commissions, the qualification (swearing in) process, and the application fee.

N.J.A.C. 17:50-1.5, Commissioning of non-residents; additional requirements, specifies that applicants who are not legal residents of New Jersey are eligible to apply if they have a place of employment or practice in New Jersey, or they maintain, or are regularly employed in, an office in New Jersey, or are an employee of a business with its domicile or primary place of business in New Jersey and perform their duties from a home office or a co-working space.

N.J.A.C. 17:50-1.6, Name change, filing, and evidence of continuance of powers privileges, outlines the filing procedures for a name change.

N.J.A.C. 17:50-1.7, Denial, revocation, suspension, or limitation, details the reasons for which the State Treasurer may deny an application for commission as a notary public, refuse to renew a commission of a notary public, or suspend, revoke, or otherwise limit the commission of a notary public.

N.J.A.C. 17:50-1.8, Certificates and stamps, outlines the general requirements for notarial acts, with a focus on the required components and contents of notarial certificates and stamps.

N.J.A.C. 17:50-1.9, Requirements for individuals unable to sign, specifies requirements for individuals unable to sign a record.

N.J.A.C. 17:50-1.10, Certificate forms, details the acceptable forms (formats) for notarial certificates.

N.J.A.C. 17:50-1.11, Journal requirement, stipulates the requirements for the use, maintenance, and disposition of notary journals.

N.J.A.C. 17:50-1.12, Copy certification requirements, delineates the requirements for certifying copies of documents.

N.J.A.C. 17:50-1.13, Forms of identification, defines the satisfactory forms of identification. Specifically, satisfactory identification establishes that an individual appearing before a notarial officer has the identity claimed, and that the signature on the record presented to the officer is the signature of the individual.

N.J.A.C. 17:50-1.14, Requirements for use of communications technology, sets forth requirements for the use of communications technology for the execution of remote notarial acts, including definitions for "biometric identification," "communications technology," "digital public key certificate," "dynamic knowledge-based authentication assessment," "foreign state," "identify proofing," "outside the United States," and "remotely located individual."

N.J.A.C. 17:50-1.15, Electronic notarization—general provisions, outlines provisions that pertain to electronic notarizations and includes additional identification methods to be used for these notarizations, including definitions needed for this section.

N.J.A.C. 17:50-1.16, Requirements for electronic notarization, specifies requirements for notifying the State Treasurer that the notarial officer will be performing electronic notarizations. This provision also mandates the use of certificates, stamps, and journal entries for electronic notarization.

N.J.A.C. 17:50-1.17, Criteria for refusal to perform a notarial act, establishes criteria for the notary to refuse to perform a notarial act.

Specifically, the proposed new section sets forth the circumstances under which the notary may refuse to perform notarial acts.

N.J.A.C. 17:50-1.18, Fees for notarial services, sets forth the fees that notaries public may charge for notarial services rendered.

As the Department of the Treasury has provided a 60-day comment period on this notice of concurrently proposed new rules, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The concurrently proposed new rules will have a positive social impact on New Jersey. They will facilitate the completion of key legal transactions in fields such as real estate, finance, and health care, which undergird the well-being of the State’s citizens. The addition of new automated modes of notarization will add convenience and flexibility for those seeking commonly used notarial services. Perhaps, most importantly, by implementing more stringent requirements for journal entries and other technical components of notarizations, the concurrently proposed rules will help reduce document fraud and thereby protect the public from nefarious actors.

Economic Impact

By enabling new options for notarization—namely remote and electronic notarizations—the concurrently proposed new rules will help to expand and streamline notarial acts that are integral parts of commercial transactions. Likewise, by enhancing the quality and integrity of the notarial office, the concurrently proposed new rules will help to improve the reliability of notarial acts and increase trust in the document-based processes and transactions that are foundations for the State’s economy. Finally, the concurrently proposed new rules will help to ensure that New Jersey stays in step with evolving notarial practices in other states and at the Federal level.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

The concurrently proposed new rules are promulgated pursuant to P.L. 2021, c. 179, which modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

The rules additionally reference various Federal notarial officers and the effectiveness of notarial acts taken by these officials. The rules are not promulgated under the authority of, or to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates Federal standards or Federal requirements. Accordingly, N.J.S.A. 52:14B-1 et seq., does not require a Federal standards analysis for the concurrently proposed new rules.

Jobs Impact

The concurrently proposed new rules are designed to implement the provisions of P.L. 2021, c. 179, and focus only on the core aspects of the notarial office and notarial practice. There will be no long- or short-term job increases or decreases associated with the concurrently proposed new rules.

Agricultural Industry Impact

The concurrently proposed new rules will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required. The concurrently proposed new rules relate strictly to the notarial office (which is a public office) and notarial practices, and, therefore, do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The concurrently proposed new rules will not have an impact on housing affordability or on the average cost of housing in the State, as they relate strictly to the notarial office and notarial practices.

Smart Growth Development Impact Analysis

The concurrently proposed new rules relate strictly to the notarial office and notarial practices. They will not cause a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The concurrently proposed new rules relate strictly to the notarial office and notarial practices. They will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Therefore, no further analysis is required.

Full text of the specially adopted and concurrently proposed new rules follows:

CHAPTER 50
NOTARY PUBLIC RULES

SUBCHAPTER 1. GENERAL PROVISIONS

17:50-1.1 Purpose

(a) Adopted by the State Treasurer, and administered by the New Jersey Department of the Treasury, Division of Revenue and Enterprise Services, this chapter implements the provisions at P.L. 2021, c. 179.

(b) The rules streamline the commissioning process; clarify and expand upon the requirements to perform notarial acts; provide for the use of new technologies for notarization; and enhance the transparency and accountability of the office of notary public (office).

(c) In implementing the improvements in this chapter, the Department of the Treasury intends to: foster improved notarial service levels Statewide; place New Jersey on a strong footing in the notarial practice space nationally; and bolster the reliability and integrity of notarial practices in general. The ultimate beneficiaries of these advancements will be New Jersey citizens and the State’s business and legal communities that rely on notarial services.

17:50-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“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 individual or entity identified in the record.

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

“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.

“In a representative capacity” means acting as:

1. An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;
2. A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
3. An agent or attorney-in-fact for a principal; or
4. An authorized representative of another in any other capacity.

“Non-attorney applicant” means an applicant for an initial or renewal commission as a notary public who is not also a licensed attorney-at-law in this State.

“Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of New Jersey. The term includes:

1. Taking an acknowledgement;
2. Administering an oath or affirmation;
3. Taking a verification on oath or affirmation;
4. Witnessing or attesting a signature;
5. Certifying or attesting a copy or deposition; and
6. Noting a protest of a negotiable instrument.

“Notarial journal” means a compendium of each notarial act performed by a notary public and should include the:

1. Date and time of the notarial act;

2. Type of notarization;
3. Date of document notarized;
4. Type of document;
5. Identification provided as proof of identity;
6. Document signer's printed name;
7. Document signer's address;
8. Document signer's signature; and
9. Any other relevant information related to the notarial act.

"Notarial officer" means a notary public or other individual authorized by law to perform a notarial act.

"Notary public" means an individual commissioned by the State Treasurer to perform a notarial act.

"Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to, or logically associated with, an electronic record.

"Person" has the meaning ascribed to it at N.J.S.A. 1:1-2.

"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.

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

1. Execute or adopt a tangible symbol; or
2. Attach to, or logically associate with, the record an electronic symbol, sound, or process.

"Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

"Stamping device" means:

1. A physical device capable of affixing to, or embossing, on a tangible record an official stamp; or
2. An electronic device or process capable of attaching to, or logically associating with, an electronic record an official stamp.

"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.

17:50-1.3 Qualifications for office, scope of authority, and prohibited acts

(a) A person commissioned as a notary public in this State shall, at the time of appointment:

1. Be at least 18 years of age;
2. Be a legal resident of this State or have a place of employment or practice in this State; and
3. Not be disqualified to receive a commission pursuant to N.J.A.C. 17:50-1.5.

(b) A notary public who has been duly commissioned and qualified is authorized to perform the duties of a notary public throughout the State.

(c) A notary public may not perform a notarial act with respect to a record to which the notary public or the notary public's spouse or civil union partner is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

(d) A notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any other language, which means or implies that the notary public is licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States.

(e) Notaries public who advertise their services in any language are required to provide with such advertisement a notice that contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

17:50-1.4 Application procedures

(a) An applicant for commission as a notary public shall make application to the State Treasurer on a form prescribed by the State Treasurer. The application shall be endorsed by a member of the Legislature. Renewals shall be made in the same manner as the original application. All applications shall be submitted electronically through a means provided by the State Treasurer at www.nj.gov/njbgs.

(b) The fee for each application for a commission is \$25.00 and is non-refundable.

(c) Within three months of the receipt of a commission, each notary public shall take and subscribe an oath to faithfully and honestly discharge the duties of the office and to make and keep a true record of all such matters as are required by law. The oath shall be sworn before the clerk of the county in which the notary public resides and shall be filed with said clerk.

(d) The oath of office of a non-resident notary public shall be taken and subscribed before the clerk of the county in which the nonresident notary public maintains the notary public's office or the county in which the nonresident notary public is an employee of a business with its domicile or primary place of business in this State. The oath shall be sworn before the clerk of the county in which the notary public resides and shall be filed with said clerk.

(e) Upon the administration of the oath, the clerk shall cause the notary public to endorse the certificate of commission and qualification and shall transmit the certificate to the State Treasurer within 10 days of the administration of the oath, through an electronic method provided by the State Treasurer.

(f) After the administration of the oath, the clerk shall provide a notice to the person that a notary public who is not licensed as an attorney-at-law shall not use or advertise the title of lawyer or attorney-at-law, or equivalent terms, in any language, which mean or imply that the notary public is, licensed as an attorney-at-law in the State of New Jersey or in any other jurisdiction of the United States. The notice shall also state that a notary public who advertises the notary public's services in any language, is required to provide with such advertisement a notice in the language of the advertisement, which contains the following statement or translation of the following statement if the advertisement is not in English: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice."

(g) The State Treasurer shall cancel and revoke the appointment of any notary public who fails to take and subscribe the oath within three months of the receipt of the commission and any appointment so canceled and revoked shall be null, void, and of no effect.

17:50-1.5 Commissioning of nonresidents; additional requirements

(a) A person who is not a legal resident of the State of New Jersey, but who maintains, or is regularly employed in, an office in this State or is an employee of a business with its domicile or primary place of business in this State and performs his or her employment duties remotely from a home office or a co-working space may apply for a commission by complying with the requirements at N.J.A.C. 17:50-1.4 and certifying the following additional information through the online commissioning site at www.nj.gov/njbgs:

1. The residence and the address of the applicant, and the office or place of employment of the applicant in this State; and

2. Once commissioned, any such nonresident notary public shall file online with the State Treasurer at www.nj.gov/njbgs a certificate showing any change of residence or change of the office or place of employment of the notary public in this State.

17:50-1.6 Name change; filing evidence of continuance of powers and privileges

(a) If a notary public adopts a name different from that which the notary public used at the time the notary public was commissioned, before the notary public provides a signature to any record that the notary public is authorized or required to sign as a notary public, the notary public shall make, sign, and file a statement in writing and under oath, on a form prescribed and furnished online at www.nj.gov/njbgs by the State Treasurer, setting forth the circumstances under which the notary public has adopted the new name.

(b) The statement shall state whether the new name has been adopted through marriage or civil union or by a change of name proceeding or otherwise, and such other information as the State Treasurer shall require. Such statement, or a certified copy, shall be evidence of the right of the notary public to continue to exercise the powers and privileges and perform the duties of a notary public in the changed or new name.

17:50-1.7 Denial, revocation, suspension, or limitation

(a) The State Treasurer may refuse to renew a commission of a notary public; or suspend, revoke, or otherwise limit the commission of a notary public for any act or omission that demonstrates that the individual lacks the honesty, integrity, competence, or reliability necessary to act as a notary public, including:

1. Failure to comply with P.L. 2021, c. 179 (N.J.S.A. 52:7-10 et seq.);
 2. A fraudulent, dishonest, or deceitful misstatement or omission in the application for commission as a notary public submitted to the State Treasurer;
 3. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on fraud, dishonesty, or deceit, including, but not limited to, a violation of section 1 at P.L. 1997, c. 1 (N.J.S.A. 2C:21-31) or section 1 at P.L. 1994, c. 47 (N.J.S.A. 2C:21-22), but nothing in this paragraph shall be deemed to supersede P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.);
 4. A conviction of a crime of the second degree or above, but nothing in this paragraph shall be deemed to supersede P.L. 1968, c. 282 (N.J.S.A. 2A:168A-1 et seq.);
 5. Failure by the notary public to discharge any duty required by any law, including P.L. 2021, c. 179 (N.J.S.A. 52:7-10 et seq.), any rules promulgated thereunder by the State Treasurer, and any other State or Federal law;
 6. Use of false or misleading advertising or representation by the notary public representing that the notary is commissioned, licensed, or authorized to practice or engage in work that the notary is not commissioned, licensed, or authorized to engage in;
 7. In the case of a notary public who is not an attorney licensed to practice law, any of the following:
 - i. Giving legal advice;
 - ii. Acting as an immigration consultant or an expert on immigration matters;
 - iii. Otherwise performing the duties of an attorney licensed to practice law in New Jersey;
 - iv. A disciplinary or other administrative action resulting in a finding of culpability if the applicant holds any professional license regulated by the State; or
 - v. Creating or reinforcing, by any means, a false impression that the person is licensed to engage in the practice of law in this State or any other state, including, but not limited to, committing a violation of P.L. 1994, c. 47 (N.J.S.A. 2C:21-22) or P.L. 1997, c. 1 (N.J.S.A. 2C:21-31);
 8. Failure to take and subscribe to the oath pursuant to section 8 of P.L. 2021, c. 179 (N.J.S.A. 52:7-14.) within three months of the receipt of a notary public commission;
 9. Withholding access to, or possession of, an original record or photocopy provided by a person who seeks performance of a notarial act by the notary public, except where allowed by law; or
 10. The denial of an application for notary public in another state; the refusal to renew in another state; or the suspension, revocation, or other limitation of the commission of the notary public in another state.
- (b) When the State Treasurer denies an application for a notary public; refuses to renew a commission of a notary public; or suspends, revokes, or otherwise limits the commission of a notary public, the State Treasurer shall provide written notice to the applicant or commission holder.

(c) The written notice at (b) above shall include:

1. The name, email address, and telephone number of a contact person at the Division of Revenue and Enterprise Services;
2. The specific details concerning the reasons for the denial; and
3. Notification that the person can submit a request for a hearing, in writing, to the Division's contact person.

(d) The request for a hearing must be received within 20 calendar days from the date the person received the notice of the denial and must include a detailed statement of the reasons that the person believes the State Treasurer's determination is improper, together with supporting documentation, if any. It should also include a statement as to whether the person is represented by legal counsel, and if so, the name, address, and telephone number of said counsel.

(e) Upon the Division's timely receipt of the items set forth at (d) above, it shall determine whether a contested case exists, and if it does,

the Division shall transmit the matter to the Office of Administrative Law for a hearing as a contested case.

(f) If the person has either failed to file a timely appeal or has expressly waived the right to appeal, the decision shall become a final decision.

(g) All hearings pursuant to this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(h) Any appeal of the final agency decision shall be solely to the Appellate Division of the Superior Court within time limits allowed by New Jersey Court Rule 2:2-3. The final agency decision shall include notice to the appellant of the right to file an appeal to the Appellate Division, the time frames, and related procedures.

17:50-1.8 Certificates and stamps

(a) All notarial acts shall be evidenced by a certificate and stamped by the notary public.

(b) Certificates shall:

1. Be executed contemporaneously with the performance of the notarial act;
2. Be signed and dated by the notarial officer;
3. Identify the jurisdiction in which the notarial act is performed;
4. Contain the title of office of the notary public; and
5. If the notarial officer is a notary public, indicate the date of expiration of the officer's commission.

(c) A certificate of a notarial act is sufficient if it meets the requirements at (a) above and:

1. Is in a short form as set forth at N.J.A.C. 17:50-1.10;
2. Is in a form otherwise permitted by the law of this State; and
3. Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed.

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

(e) If a notarial act regarding a tangible record is performed, a certificate shall be part of, or attached to, the record.

(f) If a notarial act regarding an electronic record is performed, the certificate shall be affixed to, or logically associated with, the electronic record.

(g) The official stamp of a notary public shall:

1. Include the name of the notary public, the title "Notary Public, State of New Jersey," and the notary public's commission expiration date; and
2. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(h) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate near the signature of the notary public to be clear and readable.

(i) If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified at (b) above, an official stamp must be attached to or logically associated with the certificate.

(j) Stamping device. A notary public is responsible for the security of the stamping device used by the notary public and may not allow another individual to use the device to perform a notarial act, except at the specific instruction of a notary public who cannot physically use the stamping device.

(k) The stamping device is the property of the notary public and not of the notary public's employer, even if the employer paid for the stamping device.

(l) If the stamping device used by the notary public is lost or stolen, the notary public or the notary public's personal representative shall notify the State Treasurer at <https://www.nj.gov/treasury/revenue/revencode.shtml> of the loss or theft within 10 calendar days.

17:50-1.9 Requirement for individuals 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 record with the individual's name. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

17:50-1.10 Certificate forms

(a) The following short form certificates of notarial acts are sufficient for the purposes indicated if the requirements at N.J.A.C. 17:50-1.6 are satisfied.

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

Title of office
My commission expires (date)

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))

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

Signature of notarial officer
Stamp

Title of office
My commission expires (date)

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

Title of office
My commission expires (date)

4. For witnessing or attesting a signature:

State of _____
County of _____
Signed (or attested) before me on (date) _____

(Name(s) of individual(s))

Signature of notarial officer
Stamp

Title of office
My commission expires (date)

5. For certifying a copy of a record:

State of _____
County of _____
I certify that this is a true and correct copy of a record in the possession
of _____ (name).

Dated _____ (date)

Signature of notarial officer
Stamp

Title of office
My commission expires (date)

17:50-1.11 Journal requirement

(a) A notary public shall maintain a journal of all notarial acts performed.

1. The journal may be created and maintained on a tangible medium or in an electronic format.

2. A notary public shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records.

3. If the journal is maintained on a tangible medium, it shall be a permanent, bound register with consecutively numbered lines and consecutively numbered pages.

4. If the journal is maintained in an electronic format, it shall be in a permanent, tamper-evident electronic format.

(b) For each notarial act, the notary public shall record in the journal:

- 1. The date and time of the notarial act;
- 2. The type of notarial act, including, but not limited to, the taking of an acknowledgment, the taking of a proof of a deed, the administration of an oath, or the taking of an affidavit;
- 3. The name and address of each person for whom the notarial act is performed;

4. If the identity of the individual is based on personal knowledge, a statement to that effect;

5. If the 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, if applicable, the type, date of issuance, and date of expiration of an identification document, or the name and signature of any identifying witness and, if applicable, the type, date of issuance, and date of expiration of a document identifying the witness; and

6. An itemized list of all fees charged for the notarial act.

(c) If a notary public's journal is lost or stolen, the notary public shall notify the State Treasurer within 10 days of the loss or theft at <https://www.nj.gov/treasury/revenue/revgencode.shtml> (select Notary application).

(d) The notary public shall:

1. Retain the journal for 10 years after the performance of the last notarial act chronicled in the journal; or

2. Write to the State Treasurer at <https://www.nj.gov/treasury/revenue/revgencode.shtml> for instructions on how to send or transmit the journal securely to the Division.

(e) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall either:

1. Retain the journal for 10 years after the performance of the last notarial act chronicled in the journal; or

2. Write to the State Treasurer at <https://www.nj.gov/treasury/revenue/revgencode.shtml> for instructions on how to send or transmit the journal securely to the Division.

(f) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall, within 45 days, write to the State Treasurer at <https://www.nj.gov/treasury/revenue/revgencode.shtml> for instructions on how to send or transmit the journal securely.

(g) In lieu of maintaining a journal, a notary public who is an attorney-at-law admitted to practice in this State, who is employed by an attorney-at-law, or who is employed by, or acting as an agent for, a title insurance company licensed to do business in this State pursuant to P.L. 2001, c. 210 (N.J.S.A. 17:22A-26 et seq.), may maintain a record of notarial acts in the form of files regularly maintained for the attorney's law practice or the title insurance company's business activities, as the case may be.

17:50-1.12 Copy certification requirements

A notarial officer who certifies or attests to 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.

17:50-1.13 Forms of identification

(a) A notarial officer who takes an acknowledgment or verification of a record, or who witnesses or attests to a signature, 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.

(b) Satisfactory forms of identification are as follows:

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

2. Documentation. A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual by means of:

i. A passport, driver's license, or government-issued non-driver identification card, which is current or expired not more than three years before the performance of the notarial act;

ii. Another form of government-issued identification, which is current or expired not more than three years before the performance of the notarial act, and which:

(1) Contains the individual's signature or a photograph of the individual's face; and

(2) Is satisfactory to the notarial officer; or

iii. A verification of oath or affirmation of a credible witness personally appearing before the notarial officer or using communication technology to appear before the notarial officer and personally known to the notarial officer or whom the notarial officer can identify based on a passport, driver's license, or government-issued non-driver identification card, which is current or expired not more than three years before the performance of the notarial act.

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

17:50-1.14 Requirements for use of communications technology

(a) 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 or shall use communication technology to appear before the notarial officer.

(b) This section does not apply to a record to the extent it is governed by a law governing the creation and execution of wills or codicils, except as to a tangible record that is governed by a law governing the creation or execution of wills and codicils in which case, this section shall apply.

(c) As used in this section:

1. "Biometric identification" means using a human's physical or behavioral human features to digitally identify a person. Examples of biometric identification includes systems that use fingerprints and facial and voice patterns.

2. "Communication technology" means an electronic device or process that:

i. Allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

ii. When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

3. "Digital public key certificate" means an electronic credential issued by a trusted third-party that is used to identify a person who signed an electronic record.

4. "Dynamic knowledge-based authentication assessment" means identifying a person by asking the person a set of questions derived from public or private data sources for which the person has not been provided prior answers.

5. "Foreign state" means a jurisdiction other than the United States, a state, or a Federally recognized Indian tribe.

6. "Identity proofing" means a process or service by which a third person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

7. "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

8. "Remotely located individual" means an individual who is not in the physical presence of a notarial officer performing a notarial act.

(d) Before a notary public performs the notary public's initial notarial act pursuant to this section, the notary public must notify the State

Treasurer electronically at www.nj.gov/njbgs that the notary public will be performing such notarial acts and identify the technologies the notary public intends to use.

(e) A remotely located individual may comply with this subchapter and N.J.S.A. 46:14-2.1.a and b (officers authorized to take acknowledgements and proofs) by using communication technology to appear before a notarial officer.

(f) A notarial act performed using communication technology for a remotely located individual is deemed performed in New Jersey and is governed by New Jersey law.

(g) A notarial officer located in this State may perform a notarial act using a communication technology for a remotely located individual, regardless of whether the individual is physically located in this State, if the notarial officer:

1. Ensures the remote session is interactive and secure, meaning the notary and person are viewing each other directly in real time and that the session cannot be viewed and/or recorded by an unauthorized party. The notarial officer must follow the security procedures of the National Notary Association, as supplemented (https://www.nass.org/sites/default/files/resolutions/2018-02/nass-support-revised-enotarization-standards-winter18_0.pdf);

2. Is able reasonably to confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature;

3. Obtains satisfactory identification for the remotely located individual that, for purposes of this subsection, means:

i. Visually verifies a proof of identity document as set forth at N.J.A.C. 17:50-1.13(b)2; and

ii. Uses one of the following methods of identity proofing to authenticate the individual's identity, which are incorporated herein by reference, as amended and supplemented:

(1) Dynamic knowledge-based authentication that is provided online by a third-party and that substantially follows recommended practices for this form of identification, as set forth by any of the three following authorities: National Notary Association (January 2017), available at: <https://www.nationalnotary.org/file%20library/naa/reference-library/model-enotarization-act.pdf>; the National Association of Secretaries of State (February 19, 2018) at: https://www.nass.org/sites/default/files/resolutions/2018-02/nass-support-revised-enotarization-standards-winter18_0.pdf; and the Mortgage Industry Standards Maintenance Organization (*MISMO Remote Online Notarization Standards, Final Candidate Recommendation (CR) Version, Version 1. (2019)*). The Mortgage Industry Standards Maintenance Organization. Washington, D.C.) available at: www.mismo.org/standards-and-resources/emortgage-specifications/remot-online-notarization-standards;

(2) Biometric identity verification that is in substantial compliance with National Institute of Standards and Technology requirements, as set forth at Special Publication 800-76-2, <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-76-2.pdf>; and

(3) Digital public key certificate issued by a trusted third-party in substantial compliance with the National Notary Association's recommended practice, set forth at: <https://www.nationalnotary.org/file%20library/naa/reference-library/model-enotarization-act.pdf>, (Appendix II/Rule2, Public Key Certificate); and

iii. For a remotely located individual who is located outside the United States, ensures the record:

(1) Is to be filed with, or relates to, a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(2) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

iv. For the purposes of (g)3iii above, the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located;

4. Completes a certificate and stamp in accordance with the requirements set forth at N.J.A.C. 17:50-1.8(b), (c), (d), (e), (g), and (h); and

5. Creates an audio-visual recording of the performance of the notarial act.

(h) A notarial officer in this State may use communication technology to take an acknowledgement of a signature on a tangible record that is in the possession of the notary public if the record is displayed to, and identified by, the remotely located individual during the audio-visual session.

(i) A notarial officer may perform a notarial act with respect to a tangible record not physically present before the notarial officer, if:

1. The remotely located individual, during the audio-visual session:

i. Signs the record; and

ii. Signs a declaration, substantially in the following form, which is part of or securely attached to the record:

“I declare under penalty of perjury that the record to which this declaration is attached is the same record on which [name of notarial officer] performed a notarial act and before whom I appeared by means of communication technology on [date].

[Printed name of remotely located individual]

[Signature of remotely located individual”]; and

iii. Sends the record and declaration to the notarial officer not later than three days after the notarial act was performed; and

2. The notarial officer:

i. In the audio-visual recording required records the individual signing the record and declaration; and

ii. After receipt of the record and declaration from the individual, executes the notarial certificate and stamps the same as required at (g) above, which must include the following statement or words of similar import:

“I [name of notarial officer] witnessed, by means of communication technology, [name of remotely located individual] sign the attached record and declaration on [date]”.

(j) A notarial act performed in compliance with (g) above is effective as of the date on which the declaration was signed by the remotely located individual.

(k) A notarial officer in this State may administer an oath to a remotely located individual using communication technology. The notarial officer shall identify the remotely located individual by obtaining satisfactory forms of identification pursuant to (g) above, creating an audio-visual recording of the individual taking the oath, and preserving a copy of the audio-visual recording for 10 years.

(l) If a notarial act is performed pursuant to this section, the certificate of notarial act as required at (g) above or the certificate required at N.J.S.A. 46:14-2.1.c must indicate that the notarial act was performed using communication technology.

(m) A notarial officer, a guardian, conservator, or agent of a notarial officer, or a personal representative of a deceased notarial officer shall retain the audio-visual recording created pursuant to this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording, for a period of 10 years.

17:50-1.15 Electronic notarization—general provisions and definitions

(a) A notarial officer may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect to an electronic record with a technology that the notarial officer has not selected.

(b) As used in this section:

1. “Tamper-evident” means that any change to a record shall provide evidence of the change.

2. “Logically associated with” means connecting, cross-referencing, or otherwise linking a certificate with a notarized record accurately and reliably, in a tamper-evident manner.

17:50-1.16 Requirements for electronic notarization

(a) With the exception of wills, codicils, and testamentary trusts, a notarial officer located in this State may perform a notarial act using a tamper-evident technology if the individual requesting the act appears in person before the notarial officer at the time of the act and the officer:

1. Obtains a satisfactory form of identification for the individual pursuant to N.J.A.C. 17:50-1.13; and

2. After executing the notarial act, completes an electronic certificate with an electronic signature and stamp, including all elements required at N.J.A.C. 17:50-1.13, and attaches the certificate and stamp to, or logically associates the certificate and stamp with, the notarized record.

(b) Before a notary public performs the notary public’s initial notarial act with respect to an electronic record, the notary public shall notify the State Treasurer electronically at www.nj.gov/njbgs that the notary public will be performing notarial acts with respect to electronic records and identify the technology that the notary public intends to use.

(c) The notarial officer shall ensure that the officer’s electronic signature stamp is reliable. To be considered reliable, an electronic signature and stamp must be:

1. Unique to the notarial officer;

2. Capable of independent verification;

3. Retained under the notary public’s sole control; and

4. Attached to, or logically associated with, the electronic document in a tamper-evident manner.

(d) The notary public shall not disclose any access information used to affix the electronic notary’s signature and seal, except when requested by law enforcement, the courts, and with reasonable precautions, electronic document preparation, and transmission vendors.

17:50-1.17 Criteria for refusal to perform a notarial act

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

1. The individual executing the record is competent or has the capacity to execute the record;

2. The individual’s signature is knowingly and voluntarily made;

3. The individual’s signature on the record or statement substantially conforms to the signature on a form of identification used to determine the identity of the individual; or

4. The physical appearance of the individual signing the record or statement substantially conforms to the photograph on a form of identification used to determine the identity of the individual.

(b) A notarial officer may refuse to perform a notarial act, unless the individual presenting the record provides the officer with proof that refusal is prohibited by a State of New Jersey law other than N.J.S.A. 52:7-10 et seq.

17:50-1.18 Fees for notarial services

(a) Notarial officers may collect the following fees for services rendered:

1. For administering oaths, taking affidavits, taking proofs of a deed, and taking acknowledgments, \$2.50 per act.

2. For administering oaths, taking affidavits, taking proofs of a deed, and taking acknowledgments of the grantors in the transfer of real estate, regardless of the number of such services performed in a single transaction to transfer real estate, \$15.00.

3. For administering oaths, taking affidavits, and taking acknowledgments of the mortgagors in the financing of real estate, regardless of the number of such services performed in a single transaction to finance real estate, \$25.00.