

E AND R AMENDMENTS TO LB 465

Introduced by Hansen, 26, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

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

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

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

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

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

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

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

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

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

25           (8) Notary public's electronic signature means an electronic  
26 signature which has been approved by the Secretary of State in rules and  
27 regulations adopted and promulgated under section 16 of this act as an

1 acceptable means for an electronic notary public to attach or logically  
2 associate the notary public's official signature to an electronic  
3 document that is being notarized.

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

6 (a) Hold a valid commission as a notary public in the State of  
7 Nebraska;

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

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

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

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

15 (2) The registration shall specify the technology the notary public  
16 intends to use to perform an electronic notarial act. Such technology  
17 shall be provided by an electronic notary solution provider approved by  
18 the Secretary of State.

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

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

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

28 (2) The content of the course and the basis for the examination  
29 shall include notarial laws, procedures, technology, and the ethics of  
30 electronic notarization.

31 Sec. 6. The fee for registering or reregistering as an electronic

1 notary shall be in addition to the fee required in section 33-102. The  
2 Secretary of State shall establish the fee by rule and regulation in an  
3 amount sufficient to cover the costs of administering the Electronic  
4 Notary Public Act, but the fee shall not exceed one hundred dollars. The  
5 Secretary of State shall remit fees received under this section to the  
6 State Treasurer for credit to the Administration Cash Fund for use in  
7 administering the Electronic Notary Public Act.

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

- 10       (1) Acknowledgments;  
11       (2) Jurats;  
12       (3) Verifications or proofs; and  
13       (4) Oaths or affirmations.

14       Sec. 8. An electronic notarial act shall not be performed if the  
15 signer of the electronic document is not in the physical presence of the  
16 electronic notary public at the time of notarization and is not  
17 personally known to the electronic notary public or identified by the  
18 notary public through satisfactory evidence as provided in section  
19 64-105.

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

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

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

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

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

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

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

30       Sec. 12. Electronic evidence of the authenticity of the notary  
31 public's electronic signature and electronic notary seal of an electronic

1 notary public of this state, if required, shall be attached to, or  
2 logically associated with, a document with a notary public's electronic  
3 signature transmitted to another state or nation and shall be in the form  
4 of an electronic certificate of authority signed by the Secretary of  
5 State in conformance with any current and pertinent international  
6 treaties, agreements, and conventions subscribed to by the United States  
7 Government.

8       Sec. 13. (1) An electronic certificate of authority evidencing the  
9 authenticity of the notary public's electronic signature and electronic  
10 notary seal of an electronic notary public of this state shall contain  
11 substantially the following words:

12       Certificate of Authority for an Electronic Notarial Act

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

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

23       (2) The Secretary of State may charge a fee of twenty dollars for  
24 issuing an electronic certificate of authority. The Secretary of State  
25 shall remit the fees to the State Treasurer for credit to the  
26 Administration Cash Fund.

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

30       Sec. 15. Nothing in the Electronic Notary Public Act requires a  
31 notary public to register as an electronic notary public if he or she

1 does not perform electronic notarial acts.

2       Sec. 16. The Secretary of State may adopt and promulgate rules and  
3 regulations to insure the integrity, security, and authenticity of  
4 electronic notarizations in accordance with the Electronic Notary Public  
5 Act. Such rules and regulations shall include procedures for the approval  
6 of electronic notary solution providers by the Secretary of State. In  
7 addition, the Secretary of State may require an electronic notary public  
8 to create and to maintain a record, journal, or entry of each electronic  
9 notarial act.

10       Sec. 17. Sections 64-101 to 64-119 and 64-211 to 64-215 and the  
11 Uniform Recognition of Acknowledgments Act govern an electronic notary  
12 public unless the provisions of such sections and act are in conflict  
13 with the Electronic Notary Public Act, in which case the Electronic  
14 Notary Public Act controls.

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

16       2. On page 1, line 2, after "Act" insert "; and to provide an  
17 operative date".