

# HOUSE BILL 939

P1, P3

7lr1667  
CF SB 747

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By: **Delegates Platt, Miele, Anderton, Barron, Cullison, Gilchrist, Hayes, Jacobs, Kelly, Kipke, Krebs, McCray, McDonough, Metzgar, Morales, Morgan, Pena-Melnyk, Rose, Shoemaker, Sydnor, Vallario, A. Washington, West, and K. Young**

Introduced and read first time: February 6, 2017

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Acknowledgments, Oaths, and Affirmations – Recordations**  
3 **and Notarizations**

4 FOR the purpose of authorizing a notary public to perform notarial acts electronically;  
5 requiring a certain notary public to register with the Secretary of State before  
6 performing certain electronic notarizations; requiring the Secretary to develop a  
7 certain registration form for an electronic notary; requiring an electronic notary to  
8 reregister with the Secretary of State under certain circumstances; specifying certain  
9 requirements for electronic notarizations; prohibiting an electronic notary from  
10 performing certain electronic notarizations under certain circumstances; authorizing  
11 an electronic notary to perform a remote notarization if the notary obtains certain  
12 proof of identity; authorizing an electronic notary to charge certain fees for electronic  
13 notarizations and share certain fees with a certain entity; providing that certain  
14 compensation is subject to private agreement and is not governed by certain  
15 provisions of this Act; establishing certain duties of the electronic notary;  
16 establishing that certain provisions of law relating to notarial acts are applicable to  
17 electronic notarizations under this Act; authorizing an electronic notary to perform  
18 electronic notarizations outside the State and the county for which the notary was  
19 appointed with certain power and effect; providing that certain electronic  
20 notarizations are deemed to have been performed in the State and are governed by  
21 State law; requiring the Secretary of State to adopt certain regulations; providing  
22 that certain provisions of this Act do not affect the validity or effect of electronic  
23 notarizations performed in accordance with certain provisions of law before a certain  
24 date; providing that an oath or affirmation involving any instrument may be made  
25 outside the State under certain circumstances; exempting certain oaths and  
26 affirmations from authentication requirements under certain circumstances;  
27 requiring that certain oaths and affirmations made outside the United States meet  
28 certain authentication requirements; providing that an oath or affirmation taken

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 outside the State shall have the same effect as an oath or affirmation taken within  
2 the State under certain circumstances; establishing a presumption of validity for  
3 certain instruments acknowledged outside the State; establishing validity for certain  
4 instruments that have been acknowledged and recorded with the Clerk of the Circuit  
5 Court; authorizing the Clerk of the Circuit Court to record certain instruments in  
6 certain formats under certain circumstances; defining certain terms; providing for  
7 the construction of a certain provision of this Act; and generally relating to  
8 recordations and notarizations of acknowledgments, oaths, and affirmations.

9 BY adding to

10 Article – State Government

11 New subtitle designation “Subtitle 1. General Provisions” to immediately precede  
12 Section 18–101; 18–201 through 18–208 to be under the new subtitle “Subtitle  
13 2. Electronic and Remote Notarization”; and 19–115

14 Annotated Code of Maryland

15 (2014 Replacement Volume and 2016 Supplement)

16 BY repealing and reenacting, without amendments,

17 Article – State Government

18 Section 18–101(a)(1)

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2016 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – State Government

23 Section 19–103, 19–109, and 19–110

24 Annotated Code of Maryland

25 (2014 Replacement Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Real Property

28 Section 3–102 and 3–104(a)

29 Annotated Code of Maryland

30 (2015 Replacement Volume and 2016 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

32 That the Laws of Maryland read as follows:

33 **Article – State Government**

34 **SUBTITLE 1. GENERAL PROVISIONS.**

35 18–101.

36 (a) (1) Except as provided in paragraph (2) of this subsection, the Governor,  
37 on approval of the application by a Senator representing the senatorial district and  
38 subdistrict in which the applicant resides or on approval by any Senator if the senatorial

1 office representing the senatorial district and subdistrict in which the applicant resides is  
2 vacant, may appoint and commission individuals as notaries public as provided in this title.

3 **SUBTITLE 2. ELECTRONIC AND REMOTE NOTARIZATION.**

4 **18-201.**

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (B) "APPEARS BEFORE THE ELECTRONIC NOTARY" MEANS TO BE IN THE  
8 PRESENCE OF AN ELECTRONIC NOTARY:

9 (1) IN PERSON AND IN THE SAME PHYSICAL LOCATION; OR

10 (2) IN THE CASE OF A REMOTE NOTARIZATION, BY WAY OF REAL-TIME  
11 TWO-WAY AUDIO-VIDEO COMMUNICATION.

12 (C) "ELECTRONIC" MEANS TECHNOLOGY HAVING ELECTRICAL, DIGITAL,  
13 MAGNETIC, WIRELESS, OPTICAL, ELECTROMAGNETIC, OR SIMILAR CAPABILITIES.

14 (D) "ELECTRONIC NOTARIZATION" MEANS A NOTARIAL ACT BY AN  
15 ELECTRONIC NOTARY THAT INVOLVES AN ELECTRONIC RECORD.

16 (E) "ELECTRONIC NOTARY" MEANS A NOTARY PUBLIC, APPOINTED IN  
17 ACCORDANCE WITH SUBTITLE 1 OF THIS TITLE, WHO HAS BEEN REGISTERED BY THE  
18 SECRETARY OF STATE AS HAVING THE CAPABILITY OF PERFORMING ELECTRONIC  
19 NOTARIZATIONS.

20 (F) "ELECTRONIC NOTARY SEAL" MEANS INFORMATION WITHIN A  
21 NOTARIZED ELECTRONIC DOCUMENT THAT:

22 (1) INCLUDES THE ELECTRONIC NOTARY'S NAME, COUNTY, AND  
23 COMMISSION EXPIRATION DATE; AND

24 (2) GENERALLY CORRESPONDS TO INFORMATION IN NOTARIAL SEALS  
25 USED ON PAPER DOCUMENTS.

26 (G) "ELECTRONIC RECORD" MEANS A RECORD THAT IS CREATED,  
27 GENERATED, SENT, COMMUNICATED, RECEIVED, OR STORED BY ELECTRONIC  
28 MEANS.

29 (H) "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL,  
30 OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH AN ELECTRONIC

1 DOCUMENT AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN  
2 THE DOCUMENT.

3 (I) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE  
4 MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS  
5 RETRIEVABLE IN PERCEIVABLE FORM.

6 (J) "REGISTER OF ELECTRONIC NOTARIZATIONS" MEANS A DEVICE FOR  
7 CREATING AND PRESERVING A CHRONOLOGICAL RECORD OF ALL NOTARIAL ACTS  
8 PERFORMED BY AN ELECTRONIC NOTARY THAT INCLUDES FOR EACH ELECTRONIC  
9 NOTARIZATION:

10 (1) THE DATE AND TIME OF THE ELECTRONIC NOTARIZATION;

11 (2) THE TYPE OF ELECTRONIC NOTARIZATION;

12 (3) THE TYPE, TITLE, AND DESCRIPTION OF THE ELECTRONIC  
13 RECORD;

14 (4) THE PRINTED NAME AND ADDRESS OF THE SIGNER OF THE  
15 ELECTRONIC RECORD;

16 (5) PROOF OF IDENTITY OF THE SIGNER OF THE ELECTRONIC  
17 RECORD, INCLUDING:

18 (I) A STATEMENT THAT THE SIGNER IS PERSONALLY KNOWN TO  
19 THE ELECTRONIC NOTARY; OR

20 (II) IF THE SIGNER IS NOT PERSONALLY KNOWN TO THE  
21 ELECTRONIC NOTARY, A DESCRIPTION OF THE METHOD USED TO CONFIRM THE  
22 SIGNER'S IDENTITY;

23 (6) THE AMOUNT OF THE FEE, IF ANY, CHARGED FOR THE  
24 ELECTRONIC NOTARIZATION; AND

25 (7) IF AUDIO-VIDEO COMMUNICATION WAS USED BY THE SIGNER TO  
26 APPEAR PERSONALLY BEFORE THE NOTARY, A COPY OF THE RECORDING OF THE  
27 REMOTE NOTARIZATION CONFERENCE.

28 (K) "REMOTE NOTARIZATION" MEANS AN ELECTRONIC NOTARIZATION BY  
29 AN ELECTRONIC NOTARY IN WHICH THE SIGNER OF THE ELECTRONIC DOCUMENT IS  
30 NOT IN THE PHYSICAL PRESENCE OF THE ELECTRONIC NOTARY AT THE TIME OF THE  
31 NOTARIZATION.

1 (L) "SATISFACTORY PROOF" MEANS, IN THE CASE OF REMOTE  
2 NOTARIZATIONS, PROOF OF THE IDENTITY OF THE SIGNER OF THE ELECTRONIC  
3 DOCUMENT THAT IS:

4 (1) ESTABLISHED USING REAL-TIME TWO-WAY AUDIO-VIDEO  
5 COMMUNICATION THAT ENABLES THE ELECTRONIC NOTARY TO INTERACT WITH AND  
6 IDENTIFY THE SIGNER OF THE ELECTRONIC RECORD; AND

7 (2) CONFIRMED BY:

8 (I) THE ELECTRONIC NOTARY'S PERSONAL KNOWLEDGE OF  
9 THE SIGNER OF THE ELECTRONIC DOCUMENT;

10 (II) A VALID PUBLIC KEY CERTIFICATE THAT COMPLIES WITH  
11 ANY REGULATION ADOPTED UNDER THIS SUBTITLE;

12 (III) THE SIGNER'S SUCCESSFUL COMPLETION OF AN IDENTITY  
13 ASSESSMENT THAT IS BASED ON A SET OF QUESTIONS FORMULATED FROM PUBLIC  
14 OR PRIVATE DATA SOURCES FOR WHICH THE SIGNER HAS NOT PROVIDED A PRIOR  
15 ANSWER, COMBINED WITH AT LEAST ONE OF THE FOLLOWING:

16 1. THE USE OF SOFTWARE THAT RELIES ON  
17 HIGH-RESOLUTION IMAGING AND DOCUMENT CLASSIFICATION TO PERFORM A  
18 FORENSIC ANALYSIS ON AN UNEXPIRED GOVERNMENT-ISSUED PHOTO  
19 IDENTIFICATION THAT HAS BEEN PROVIDED BY THE SIGNER; OR

20 2. THE ELECTRONIC NOTARY'S VISUAL INSPECTION OF A  
21 HIGH-RESOLUTION IMAGE OF A VALID GOVERNMENT-ISSUED PHOTO  
22 IDENTIFICATION THAT:

23 A. HAS BEEN PROVIDED BY THE SIGNER; AND

24 B. CONTAINS INFORMATION THAT IS CONSISTENT WITH  
25 OTHER INFORMATION THE SIGNER HAS PROVIDED TO THE NOTARY; OR

26 (IV) ANY OTHER METHOD OF CONFIRMING THE IDENTITY OF THE  
27 SIGNER OF THE ELECTRONIC RECORD THAT IS AUTHORIZED BY A REGULATION  
28 ADOPTED UNDER THIS SUBTITLE.

29 18-202.

1           **(A) (1) BEFORE PERFORMING AN ELECTRONIC NOTARIZATION, A**  
2 **NOTARY PUBLIC SHALL REGISTER WITH THE SECRETARY OF STATE THE CAPABILITY**  
3 **OF NOTARIZING ELECTRONICALLY.**

4           **(2) AFTER RENEWING A NOTARY PUBLIC COMMISSION UNDER**  
5 **SUBTITLE 1 OF THIS TITLE, AND BEFORE PERFORMING ELECTRONIC OR REMOTE**  
6 **NOTARIZATIONS DURING THE NEW TERM, AN ELECTRONIC NOTARY SHALL**  
7 **REREGISTER WITH THE SECRETARY OF STATE THE CAPABILITY OF NOTARIZING**  
8 **ELECTRONICALLY.**

9           **(B) (1) THE SECRETARY OF STATE SHALL DEVELOP A REGISTRATION**  
10 **FORM TO BE USED TO REGISTER AN ELECTRONIC NOTARY.**

11           **(2) (I) THE REGISTRATION FORM SHALL INCLUDE A DESCRIPTION**  
12 **OF THE TECHNOLOGY THE REGISTRANT WILL USE TO CREATE AN ELECTRONIC**  
13 **SIGNATURE AND ELECTRONIC NOTARY SEAL IN PERFORMING ELECTRONIC**  
14 **NOTARIZATIONS, INCLUDING THE NAME OF THE TECHNOLOGY PROVIDER.**

15           **(II) IF AN ELECTRONIC NOTARY UPDATES THE TECHNOLOGY**  
16 **DESCRIBED IN A REGISTRATION FORM UNDER SUBPARAGRAPH (I) OF THIS**  
17 **PARAGRAPH, THE NOTARY SHALL REREGISTER WITH THE SECRETARY OF STATE**  
18 **WITHIN 90 DAYS OF THE INSTALLATION OF THE UPDATED TECHNOLOGY.**

19 **18-203.**

20           **(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A NOTARIAL ACT**  
21 **AUTHORIZED BY AND PERFORMED IN ACCORDANCE WITH SUBTITLE 1 OF THIS TITLE**  
22 **MAY BE PERFORMED ELECTRONICALLY.**

23           **(B) IN PERFORMING AN ELECTRONIC NOTARIZATION OF AN ELECTRONIC**  
24 **RECORD, AN ELECTRONIC NOTARY SHALL ATTACH TO OR LOGICALLY ASSOCIATE**  
25 **WITH THE ELECTRONIC RECORD:**

26           **(1) THE ELECTRONIC SIGNATURE OF THE ELECTRONIC NOTARY; AND**

27           **(2) THE ELECTRONIC NOTARY'S ELECTRONIC NOTARY SEAL.**

28           **(C) THE NOTARY'S ELECTRONIC SIGNATURE AND ELECTRONIC NOTARY**  
29 **SEAL SHALL BE USED IN AN ELECTRONIC NOTARIZATION IN COMBINATION WITH**  
30 **TECHNOLOGY THAT:**

31           **(1) IDENTIFIES THE NOTARY AND IS UNIQUE TO THE NOTARY;**

1           **(2) RENDERS THE TIME AND DATE OF THE ELECTRONIC**  
2 **NOTARIZATION CAPABLE OF INDEPENDENT VERIFICATION; AND**

3           **(3) IS ATTACHED TO OR LOGICALLY ASSOCIATED WITH THE**  
4 **ELECTRONIC RECORD IN A MANNER THAT RENDERS THE RECORD**  
5 **TAMPER-EVIDENT.**

6           **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**  
7 **AN ELECTRONIC NOTARY SHALL REFUSE TO PERFORM AN ELECTRONIC**  
8 **NOTARIZATION IF THE SIGNER OF THE ELECTRONIC RECORD:**

9                   **(I) DOES NOT APPEAR BEFORE THE ELECTRONIC NOTARY AT**  
10 **THE TIME OF THE ELECTRONIC NOTARIZATION;**

11                   **(II) IS NOT PERSONALLY KNOWN TO THE ELECTRONIC NOTARY**  
12 **OR IDENTIFIED TO THE NOTARY’S SATISFACTION;**

13                   **(III) SHOWS A Demeanor THAT CAUSES THE ELECTRONIC**  
14 **NOTARY TO HAVE A COMPELLING DOUBT ABOUT WHETHER THE SIGNER KNOWS THE**  
15 **PURPOSE OF THE ELECTRONIC NOTARIZATION; OR**

16                   **(IV) IN THE ELECTRONIC NOTARY’S JUDGMENT, IS NOT ACTING**  
17 **WILLINGLY.**

18           **(2) AN ELECTRONIC NOTARY MAY PERFORM A REMOTE**  
19 **NOTARIZATION IF THE NOTARY OBTAINS SATISFACTORY PROOF OF THE IDENTITY OF**  
20 **THE SIGNER OF THE ELECTRONIC RECORD.**

21           **(E) (1) AN ELECTRONIC NOTARY MAY:**

22                   **(I) CHARGE A FEE FOR AN ELECTRONIC NOTARIZATION THAT**  
23 **EXCEEDS THE AMOUNT CHARGED FOR NOTARIAL ACTS UNDER SUBTITLE 1 OF THIS**  
24 **TITLE IF THE FEE:**

25                           **1. REASONABLY ACCOUNTS FOR THE COSTS OF THE**  
26 **TECHNOLOGY USED IN ELECTRONIC NOTARIZATIONS; AND**

27                           **2. HAS BEEN CONSPICUOUSLY DISCLOSED TO THE**  
28 **SIGNER IN ADVANCE OF BEING CHARGED;**

29                   **(II) CHARGE A REASONABLE FEE TO RECOVER THE COST OF**  
30 **PREPARING RECORDS AND DUPLICATES FOR INSPECTION RELATED TO THE**  
31 **NOTARY’S ELECTRONIC NOTARIAL SERVICES; AND**

1 (III) SHARE FEES COLLECTED FOR NOTARIAL SERVICES  
2 PERFORMED UNDER THIS SUBTITLE WITH A PRIVATE ENTITY THAT PROVIDES  
3 SOFTWARE OR OTHER SERVICES USED BY THE NOTARY FOR PERFORMING  
4 ELECTRONIC NOTARIAL ACTS OR COMPLYING WITH OTHER REQUIREMENTS IN THIS  
5 TITLE.

6 (2) COMPENSATION FOR SERVICES PROVIDED BY A NOTARY THAT DO  
7 NOT CONSTITUTE NOTARIAL ACTS OR ARE NOT SUBJECT TO THE REQUIREMENTS OF  
8 THIS TITLE IS SUBJECT TO PRIVATE AGREEMENT AND IS NOT GOVERNED BY THIS  
9 TITLE.

10 18-204.

11 AN ELECTRONIC NOTARY SHALL:

12 (1) EXERCISE:

13 (I) REASONABLE CARE IN THE PERFORMANCE OF ELECTRONIC  
14 NOTARIZATIONS; AND

15 (II) A HIGH DEGREE OF CARE IN OBTAINING SATISFACTORY  
16 PROOF OF THE IDENTITY OF THE SIGNER OF THE ELECTRONIC RECORD;

17 (2) TAKE REASONABLE STEPS TO ENSURE:

18 (I) THE INTEGRITY, SECURITY, AND AUTHENTICITY OF  
19 ELECTRONIC NOTARIZATIONS; AND

20 (II) THAT ANY REGISTRATION FOR A DEVICE USED TO CREATE  
21 THE ELECTRONIC SIGNATURE AND ELECTRONIC NOTARY SEAL IS CURRENT AND HAS  
22 NOT BEEN REVOKED OR TERMINATED BY THE ISSUING OR REGISTERING  
23 AUTHORITY;

24 (3) (I) KEEP, MAINTAIN, PROTECT, AND PROVIDE A RECORD OF  
25 ELECTRONIC NOTARIZATIONS FOR LAWFUL INSPECTION; AND

26 (II) MAINTAIN THE REGISTER OF ELECTRONIC NOTARIZATIONS  
27 FOR AT LEAST 5 YEARS FROM THE DATE OF THE NOTARIZATION;

28 (4) (I) MAINTAIN A BACKUP OF THE REGISTER OF ELECTRONIC  
29 NOTARIZATIONS; AND



1                   **(II) TAKE REASONABLE STEPS TO ENSURE PROTECTION OF THE**  
2 **BACKUP OF THE REGISTER OF ELECTRONIC NOTARIZATIONS FROM UNAUTHORIZED**  
3 **USE;**

4                   **(5) KEEP THE REGISTER OF ELECTRONIC NOTARIZATIONS,**  
5 **ELECTRONIC SIGNATURE, AND ELECTRONIC NOTARY SEAL SECURE UNDER THE**  
6 **NOTARY'S EXCLUSIVE CONTROL AND FOR THE NOTARY'S EXCLUSIVE USE;**

7                   **(6) USE THE ELECTRONIC NOTARY'S ELECTRONIC SIGNATURE AND**  
8 **ELECTRONIC NOTARY SEAL ONLY FOR THE PURPOSE OF PERFORMING ELECTRONIC**  
9 **NOTARIZATIONS; AND**

10                   **(7) IF THE REGISTER OF ELECTRONIC NOTARIZATIONS, ELECTRONIC**  
11 **SIGNATURE, OR ELECTRONIC NOTARY SEAL HAS BEEN LOST, STOLEN, OR USED BY**  
12 **AN INDIVIDUAL OTHER THAN THE ELECTRONIC NOTARY:**

13                   **(I) INFORM THE APPROPRIATE LAW ENFORCEMENT AGENCY IN**  
14 **THE CASE OF THEFT OR VANDALISM; AND**

15                   **(II) NOTIFY THE SECRETARY OF STATE IN WRITING.**

16 **18-205.**

17                   **AN ELECTRONIC NOTARIZATION IS SUBJECT TO THE RULES APPLICABLE TO A**  
18 **NOTARIAL ACT UNDER SUBTITLE 1 OF THIS TITLE.**

19 **18-206.**

20                   **(A) AN ELECTRONIC NOTARY MAY PERFORM ELECTRONIC NOTARIZATIONS**  
21 **IN ANY OTHER COUNTY OR STATE WITH THE SAME POWER AND EFFECT IN ALL**  
22 **RESPECTS AS IF THE ELECTRONIC NOTARIZATION WAS PERFORMED IN THE COUNTY**  
23 **FOR WHICH THE ELECTRONIC NOTARY WAS APPOINTED.**

24                   **(B) AN ELECTRONIC NOTARIZATION PERFORMED BY AN ELECTRONIC**  
25 **NOTARY IN ACCORDANCE WITH THIS SUBTITLE, REGARDLESS OF THE JURISDICTION**  
26 **IN WHICH THE SIGNER OF THE ELECTRONIC RECORD IS PHYSICALLY LOCATED AT**  
27 **THE TIME OF THE ELECTRONIC NOTARIZATION, SHALL BE:**

28                   **(1) DEEMED TO HAVE BEEN PERFORMED IN THE STATE; AND**

29                   **(2) GOVERNED BY STATE LAW.**

30 **18-207.**

1           **(A) THE SECRETARY OF STATE SHALL ADOPT REGULATIONS TO**  
2 **IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS SUBTITLE.**

3           **(B) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE A**  
4 **REQUIREMENT THAT AN ELECTRONIC RECORD BEARING AN ELECTRONIC SEAL**  
5 **AUTHORIZED BY THIS SUBTITLE SHALL MAKE ANY CHANGE, ALTERATION, OR**  
6 **TAMPERING DONE TO THE ELECTRONIC RECORD SELF-EVIDENT.**

7 **18-208.**

8           **THIS SUBTITLE DOES NOT AFFECT THE VALIDITY OR EFFECT OF AN**  
9 **ELECTRONIC NOTARIZATION PERFORMED IN ACCORDANCE WITH §§ 21-101**  
10 **THROUGH 21-120 OF THE COMMERCIAL LAW ARTICLE BEFORE OCTOBER 1, 2017.**

11 **19-103.**

12           The acknowledgment of **ANY INSTRUMENT OR AN OATH OR AFFIRMATION**  
13 **INVOLVING** any instrument may be made outside the State but within another state and  
14 within the jurisdiction of the officer, before:

15                   (1) a clerk or deputy clerk of any federal court;

16                   (2) a clerk or deputy clerk of any court of record of any state or other  
17 jurisdiction; or

18                   (3) a notary public.

19 **19-109.**

20           (a) No authentication is necessary if the acknowledgment, **OATH, OR**  
21 **AFFIRMATION** is:

22                   (1) taken within the State; or

23                   (2) made outside the United States by an officer of the United States.

24           (b) (1) No authentication is necessary if the acknowledgment, **OATH, OR**  
25 **AFFIRMATION** is taken outside of the State, but within another state.

26                   (2) (i) The certificate may, however, be authenticated by a certificate as  
27 to the official character of the officer that took the acknowledgment, **OATH, OR**  
28 **AFFIRMATION.**

1 (ii) If the officer that took the acknowledgment, **OATH, OR**  
2 **AFFIRMATION** is a clerk or deputy clerk of a court, the authenticating certificate shall be  
3 executed by the presiding judge of the court.

4 (iii) If the officer that took the acknowledgment, **OATH, OR**  
5 **AFFIRMATION** is a notary public, the authenticating certificate shall be executed by a clerk  
6 of a court of record of the county, parish, or district in which the acknowledgment, **OATH,**  
7 **OR AFFIRMATION** is taken.

8 (iv) When the authenticating certificate bears the seal of the  
9 authenticating officer, the signature on the certificate may be a facsimile that is printed,  
10 stamped, photographed, or engraved on the certificate.

11 (c) If the acknowledgment, **OATH, OR AFFIRMATION** is made outside the United  
12 States and by a notary public or a judge or clerk of a court of record of the country where  
13 the acknowledgment, **OATH, OR AFFIRMATION** is made, the certificate shall be  
14 authenticated by:

15 (1) a certificate under the great seal of state of the country, affixed by the  
16 custodian of the seal, certifying as to the official character of the officer; or

17 (2) a certificate of a diplomatic, consular, or commercial officer of the  
18 United States accredited to that country, certifying as to the official character of the officer.

19 19-110.

20 Notwithstanding any other provision of this subtitle, the acknowledgment of an  
21 instrument outside the State **OR AN OATH OR AFFIRMATION TAKEN OUTSIDE THE**  
22 **STATE** shall have the same effect as an acknowledgment, **OATH, OR AFFIRMATION** in the  
23 manner and form required by the laws of the State for instruments executed within the  
24 State if the acknowledgment, **OATH, OR AFFIRMATION**:

25 (1) was executed in another state, in compliance with the manner and form  
26 required by the laws of that state; and

27 (2) is verified by the official seal of the officer before whom the instrument  
28 was acknowledged **OR THE OATH OR AFFIRMATION WAS TAKEN.**

29 **19-115.**

30 **AN INSTRUMENT ACKNOWLEDGED OUTSIDE THE STATE THAT APPEARS ON ITS**  
31 **FACE TO BE PROPERLY ACKNOWLEDGED IS PRESUMED TO BE PROPERLY**  
32 **ACKNOWLEDGED UNDER THE LAWS OF THE OTHER STATE IF THE INSTRUMENT WAS**  
33 **ACKNOWLEDGED BEFORE:**

1           **(1) A CLERK OR DEPUTY CLERK OF ANY FEDERAL COURT;**

2           **(2) A CLERK OR DEPUTY CLERK OF ANY COURT OF RECORD OF ANY**  
3 **STATE OR OTHER JURISDICTION; OR**

4           **(3) A NOTARY PUBLIC.**

5                                   **Article – Real Property**

6 3–102.

7           (a) (1) Any other instrument affecting property, including any contract for the  
8 grant of property, or any subordination agreement establishing priorities between interests  
9 in property may be recorded.

10           (2) The following instruments also may be recorded:

11                           (i) Any notice of deferred property footage assessment for street  
12 construction;

13                           (ii) Any boundary survey plat signed and sealed by a professional  
14 land surveyor or property line surveyor licensed in the State;

15                           (iii) Any assumption agreement by which a person agrees to assume  
16 the liability of a debt or other obligation secured by a mortgage or deed of trust;

17                           (iv) Any release of personal liability of a borrower or guarantor under  
18 a mortgage or under a note or other obligation secured by a deed of trust;

19                           (v) A ground rent redemption certificate or a ground rent  
20 extinguishment certificate issued under § 8–110 of this article; or

21                           (vi) An affordable housing land trust agreement executed under Title  
22 14, Subtitle 5 of this article with any transfer of property for which an affordable housing  
23 land trust has a reversionary interest.

24           (3) The recording of any instrument constitutes constructive notice from  
25 the date of recording.

26           **(4) (I) AN INSTRUMENT THAT HAS BEEN ACKNOWLEDGED BEFORE**  
27 **THE CLERK OR DEPUTY CLERK OF ANY FEDERAL COURT, A CLERK OR DEPUTY CLERK**  
28 **OF ANY COURT OF RECORD OF ANY STATE OR JURISDICTION, OR A NOTARY PUBLIC**  
29 **AND IS RECORDED UNDER THIS SUBTITLE IS VALID ON THE DATE OF RECORDING**  
30 **NOTWITHSTANDING ANY TECHNICAL DEFECT IN THE ACKNOWLEDGMENT.**

1                   **(II) THIS PARAGRAPH DOES NOT APPLY TO AN INSTRUMENT**  
2 **THAT HAS BEEN ACKNOWLEDGED WHEN THE ACKNOWLEDGMENT WAS MADE**  
3 **FRAUDULENTLY OR UNDER CIRCUMSTANCES OF DURESS.**

4           (b)       This section may not be construed to authorize the recording of a subdivision  
5 plat without any prior review and approval otherwise required by law.

6 3–104.

7           (a)       (1)      The Clerk of the Circuit Court may record an instrument that effects a  
8 change of ownership if the instrument is:

9                               (i)      Endorsed with the certificate of the collector of taxes of the  
10 county in which the property is assessed, required under subsection (b) of this section;

11                           (ii)     1.      Accompanied by a complete intake sheet; or

12   2.      Endorsed by the assessment office for the county as  
13 provided in subsection (g)(8) of this section; and

14                           (iii)     Accompanied by a copy of the instrument, and any survey, for  
15 submission to the Department of Assessments and Taxation.

16           (2)       **THE CLERK OF THE CIRCUIT COURT MAY RECORD AN**  
17 **INSTRUMENT THAT OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS**  
18 **SUBTITLE IN THE FORM OF AN ELECTRONIC RECORD OR A COMPLETE PAPER**  
19 **PRINTOUT OF AN ELECTRONIC RECORD IF THE ELECTRONIC RECORD HAS BEEN**  
20 **CREATED AND RETAINED IN ACCORDANCE WITH:**

21                           **(I)     §§ 21–101 THROUGH 21–120 OF THE COMMERCIAL LAW**  
22 **ARTICLE; OR**

23                           **(II)    THE LAWS OF ANOTHER STATE.**

24           **(3)**       The Supervisor of Assessments shall transfer ownership of property in  
25 the assessment records, effective as of the date of recordation, upon receipt from the Clerk  
26 of the Circuit Court of a copy of the instrument, the completed intake sheet, and any survey  
27 submitted under paragraph (1) of this subsection.

28           SECTION 2. AND BE IT FURTHER ENACTED, That § 3–102(a)(4) of the Real  
29 Property Article, as enacted by Section 1 of this Act, shall be construed to apply  
30 retroactively and shall be applied to and interpreted to affect any instrument that has been  
31 acknowledged and recorded on or before October 1, 2017.

32           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2017.