

## Implementing the New Illinois Notary Requirements

### *Journals, Electronic and Remote Notarizations, Training, and More!*

#### Additional Q&A

##### A. Training and Course of Study Requirements

1. **Do current notaries need to take the course of study if their commission has not expired?** No, a current notary does not need to complete the course of study until your term has expired and you are renewing your commission.
2. **Do current notaries need to take this course if their commission does not expire until later in 2024/2025?** No, not until your term has expired and you are renewing your commission.
3. **Regarding the course of study beginning January 1, 2024, it mentions new notaries or those renewing their commission, but I'm assuming all notaries are required to complete the course of study?** The course of study is not required until you are renewing your commission or applying for the first time as a notary public.
4. **Will training be required every time the notary needs to renew their commission?** Yes.
5. **Will proof of training course completion need to be included with the application/renewal for notary? What will the "proof" consist of?** The training provider should give you a certificate or other proof that you have successfully completed the required course of study.

##### B. Journals

6. **How long do I keep the journal after it is full?** "A journal maintained in a tangible format must be retained for a minimum of 7 years after the final notarial act chronicled in the journal." [14 Ill. Adm. Code 176.920\(g\)](#).
7. **If we get the signatures from the principal in the journals, should we also get the signatures from our co-workers to be consistent?** Your co-worker's signatures are not required, even if your journal will include the principal's signature (which is itself an optional journal entry and is not required). If you decide to collect signatures in your journal, remember the prohibition on recording any electronic signatures.
8. **Has anyone found a good paper journal? We ordered journals in July and found that they were not updated with the new requirements. We had to cross out many sections for the prohibited items.** Unfortunately, we are not aware of any commercially-available paper journals that are fully customized for the new Illinois journal requirements.
9. **Is there a list of vendors who sell the paper journal designed specifically to meet the new requirements? Everything we have seen or ordered has way more items than required. We want to avoid any errors of inputting something that is now**

**prohibited.** Unfortunately, we are not aware of any commercially-available paper journals that are fully customized for the new Illinois journal requirements.

- 10. Where can I find paper journals available to purchase? The ones I find contain prohibited item fields.** Unfortunately, we are not aware of any commercially-available paper journals that are fully customized for the new Illinois journal requirements.
- 11. For documents notarized after July 1, 2023, do those need to be documented in journals or can we start documenting going forward?** Any notarizations completed after the journal requirements went into effect on July 1, 2023, should be documented in your journal — retroactively, if necessary. Ideally, notaries should document notarizations immediately after completing each notarization.
- 12. Can we make up our own notary journal as long as it contains all the pertinent information required to be in the journal, or do we have to purchase a notary journal from a provider?** Yes, you can make your own journal, but make sure that it complies with all of the requirements in the [administrative rules](#), Sections 176.900–990, such as the requirement that your journal use a “binding method that is designed to prevent the insertion, removal, or substitution of the cover or a page. This includes glue, staples, grommets, or another binding, but does not include the use of tape, paper clips, or binder clips.”
- 13. Can we create our own journals in paper form, or do they have to be bound in a notebook-style log?** Notary journals maintained on a tangible medium do have to be bound, among other requirements for the physical journal and the entries contained in the journal. It may be possible to print off paper and have those printed pages professionally bound, or even stapled, provided that “the cover and pages inside the journal [are] bound together by any binding method that is designed to prevent the insertion, removal, or substitution of the cover or a page. This includes glue, staples, grommets, or another binding, but does not include the use of tape, paper clips, or binder clips.” The physical requirements and entry requirements are in [14 Ill. Adm. Code 176.910](#) and [14 Ill. Adm. Code 176.920](#).
- 14. Our current journals have a section for “Type of Identification,” with a selection of items we can pick from. Since we are prohibited from entering an identification number in a journal, should we just select one of the items? Could we input, for instance, “IL DL Exp. 09/13/24”?** Yes, that approach should be a good workaround — you would not be including any prohibited items in the journal if recording only the type of identification used and its expiration date.
- 15. In reference to the required entry item 8, the physical location of the notary and the principal (city and state), we have been inputting the full address and phone number in our journals. Are we no longer required to do that? Do we instead input just the city and state where the document is being notarized?** The new administrative rules do not require you to input the full address and phone number for the notary and principal — only their physical location by city and state. Inputting the location where the document is notarized may not be sufficient, since remote and electronic notarizations allow the notary and principal to be in different physical locations while the notarization occurs. Your journal should include the city and state for the principal and for the notary.
- 16. If I notarize a document that requires witnesses, can I record just their names in my journal? At times, our customers come in with documentation that needs to be**

**notarized by two witnesses, so we have two employees witness and sign, in which case I'm assuming I would notate just their names in the journals, correct?** The journal should include both the name and physical location (city and state) for anyone whose signature you notarize. The Illinois Notary Public Act refers to “credible witnesses” who verify the identity of a principal, but that “witnessing” function is distinct from the function of signing a document as a witness. If an individual is signing a document as a witness, and you are notarizing that signature, we believe that individual is serving in the role of a principal (meaning an individual whose signature is notarized) — and that you must record both the name and physical location (city and state) for each principal.

- 17. Who is going to regulate and monitor these journals? What happens if the notary does not comply? Will the IDFPR or FDIC review these requirements in their examinations of banks?** At this time, we are not aware of the Secretary of State monitoring or auditing notarial journals. The Secretary of State would investigate your compliance with its journal requirements should its office receive a complaint that you have violated the Illinois Notary Public Act’s journal requirements, and it has the authority to suspend or revoke your notary commission. We do not believe that bank supervisors, such as the IDFPR or FDIC, separately monitor or supervise a bank’s employees’ compliance with state notary requirements as part of the examination process.
- 18. If you are notarizing a document remotely, what is considered the physical location for the journal?** Your journal must include the physical location of the notary and the principal, which ordinarily would be two different locations in the context of a remote notarization.
- 19. Can you please explain when we would use “Name(s) of All Signers for Principal”? What is the difference between that and “Name of Principal”?** The exact language in the administrative rules require the name of the principal and “the name of any other person that signed for the principal.” Examples of a person who signs for the principal would be an agent signing on behalf of the principal under a duly-executed power of attorney and someone signing on behalf of an individual who is physically unable to write or make a mark due to physical disabilities.

### **C. Remote & Electronic Notarizations**

- 20. Can we now conduct electronic notarizations in Illinois?** Not yet. The Secretary of State must certify electronic notarization providers and must provide you with an electronic notarial commission before you may begin performing electronic notarizations in Illinois. We recommend periodically checking the Secretary of State’s website at <https://www.il-sos.gov/departments/index/notary/home.html> and monitoring IBA newsletters for updates.
- 21. Can I decline to perform an electronic or remote notarization?** Yes, “any notary or electronic notary appointed by the Secretary of State may elect not to perform a notarial act or an electronic notarial act for any reason.” [5 ILCS 312/2-101\(d\)](#).
- 22. Can I notarize a document remotely signed with DocuSign after verifying the signer’s ID without an audio-video connection?** No, a remote notarization requires an audio-video connection, meaning that you can “see, hear, and communicate with another person in real time using electronic means.”

- 23. Which vendor is preferred for electronic notarization?** Any vendor who is certified by the Secretary of State would have to meet its stringent requirements, and the Secretary of State cannot identify a preference among those certified vendors.
- 24. I believe I heard that the notary bond is \$35,000.00 for electronic notaries. Can you please clarify that a notary bond for remote and in-person notarizations will continue to be \$5,000.00?** A notary that intends to perform remote notarizations or electronic notarizations is a combined \$30,000 (\$5,000 for a traditional notary bond plus \$25,000 for remote/electronic notarizations). A \$5,000 bond would suffice only for a traditional notary who performs only in-person notarizations.
- 25. We were recently told that Illinois Secretary of State does not accept e-notarized documents, such as documents to register a bank's lien on an automobile as collateral. We have many requests from borrowers to e-sign their loan documents. For example, we need a notarized power of attorney (POA) document to register our bank lien on the vehicle title, but apparently the Secretary of State does not accept e-signed POA documents.** This question is outside the purview of the Secretary of State's Department of Index. We will follow up with more information.

#### **D. General Notary Questions**

- 26. Is a person requesting notarization required to bring a credible witness with them?** No, a person requesting a notarization could also be identified by personal knowledge of the notary or "remote presentation by the remotely located principal of a government-issued identification credential that contains a photograph and the signature of the remotely located principal and otherwise conforms to the requirements of 5 ILCS 312/6-102.5(a)(3)."
- 27. Is a separate witness now required every time a notary stamps their seal?** No, see above.
- 28. How should we execute a notarization for a family member or spouse?** A notarial act conducted for a family member or spouse must comply with all of the requirements of the Illinois Notary Public Act and the Secretary of State's administrative rules. In the case of a spouse or family member, you likely can identify the principal based on your "personal knowledge" rather than resorting to other identification measures.
- 29. We have one branch in Illinois and open accounts only in Illinois. However, we have clients in multiple states. Are we able to notarize documents from our clients who have businesses and operate in other states?** Yes, you may perform in-person notarizations for such clients who travel to Illinois. You also may perform remote notarizations for clients who travel to Illinois (they must "attest to being physically located in Illinois during the two-way audio-video communication"). If a client will not be traveling to Illinois for the notarization, you may be able to provide an electronic notarization while based in Illinois — electronic notarizations are permitted for an "remotely located individual who is physically located: (i) in this State; or (ii) outside of this State, but not outside the United States."
- 30. If we take our documents to a customer in Indiana or Florida, are we allowed to notarize those documents, or does someone in that state have to notarize?** Someone in the state (Indiana or Florida) would have to notarize the documents. All three types

of notarizations authorized by the Illinois Notary Public Act (in-person, remote, and electronic) require the notary to be located in Illinois during the notarization.

**31. Can you clarify the five years you discussed earlier in the presentation?** The presentation does not discuss any five-year periods. We did discuss the four-year length of a resident notary commission in Illinois, as well as the following record retention periods:

- Seven years — Paper and electronic journals
- Three years — Recordings of remote notarial acts
- Seven years — Recordings of electronic notarial acts

**32. I have noticed the IL SOS Notary Public Search site now lists a notary's employer. Does a notary need to contact Illinois Secretary of State to update this if they are no longer with the employer?** Not if you are an Illinois resident notary. If you are a non-resident notary, you must report the change in employment to the Secretary of State, and both your current employment and your new employment must be located in Illinois.

**33. What should I do if I lose my notary stamp or journal?** Read through the administrative rules' requirements in [Section 176.530 Replacement of Lost, Compromised, Destroyed, or Stolen Official Seal or Electronic Seal](#) and [Section 176.940 Custody and Control of the Journal and Notification of a Lost, Compromised, Destroyed, or Stolen Journal](#).

**34. We are going to have signature pads set up at the lenders' desks so that applicants can sign their documents on the pad in front of the lender. How can these signatures be notarized?** At this time, we believe the principal would need to physically sign any documents that would be notarized. The Illinois Notary Public Act continues to require that notaries affix their "rubber stamp seal clearly and legibly using black ink" for in-person notarizations, and we do not believe the Illinois standards for remote notarizations would allow for the use of a signature pads (also known as IPENs). Thus the principal would have to physically sign the documents, or you would have to follow electronic notarization procedures for electronic signatures — which is not possible at this time, since the Secretary of State has not yet certified any electronic notarization system providers and has not issued any electronic notary commissions (as of this writing).