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**CHAPTER 33
NOTARIES PUBLIC**

SOURCE: Entire Chapter enacted by P.L. 21-106:2 (May 29, 1992).

- Article 1. Implementation.
- Article 2. Commissioning.
- Article 3. Powers and Limitations.
- Article 4. Journal and Seal.
- Article 5. Certificates.
- Article 6. Liability and Remedies.
- Article 7. Miscellaneous.
- Article 8. Authentication.
- Article 9. Officers in the Armed Forces.
- Article 10. Remote Online Notarization.
- Article 11. Electronic Recording Authorization.

**ARTICLE 1
IMPLEMENTATION**

- § 33101. Short Title.
- § 33102. Purposes.
- § 33103. Prospective Effect.
- § 33103.1. Non application to Court Reports and Other Court Officers.
- § 33104. Definitions.
- § 33105. Effective Date.
- § 33106. Notary Public Revolving Fund.

§ 33101. Short Title.

This Chapter shall be known and may be cited as the *Model Notary Law*.

COMMENT: This Chapter is basically the *Model Notary Law* as promulgated by the National Notaries Association. The Guam Legislature has made various amendments to conform to local administrative needs and organization.

§ 33102. Purposes.

This Chapter shall be construed and applied to advance its underlying purposes, which are:

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- (a) To promote, serve, and protect the public interest;
- (b) To clarify and modernize the law governing notaries; and
- (c) To make uniform notarial laws among the jurisdictions enacting it.

2015 NOTE: Subsection designations were altered to reflect the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 33103. Prospective Effect.

The existing bond, seal, length of commission term, and liability of current notaries commissioned before this Chapter's effective date may not be invalidated, modified, or terminated by this Chapter, but those notaries shall comply with this Chapter in performing notarizations and in applying for new commissions.

§ 33103.1. Non-application to Court Reporters and Other Court Officers.

None of the provisions of this Chapter applies to any certification by official court reporters of transcripts of trials or other Court proceedings, or to the authentication of Court documents by other ministerial officers of the Court pursuant to statute or Court rule.

SOURCE: Added by P.L. 24-130:1 (Feb. 16, 1998).

§ 33104. Definitions.

As used in this Chapter:

- (a) *Acknowledgment* means a notarial act in which a notary certifies that a signer, whose identity is proven on the basis of satisfactory evidence, has admitted, in the notary's presence, having signed a document voluntarily for its stated purpose.
- (b) *Commission* means to empower to perform notarial acts and the written authority to perform those acts.
- (c) *Copy certification* means a notarial act in which a notary certifies having made a photocopy of a document that is neither a public record nor publicly recordable.

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(d) *A crime involving moral turpitude* includes any felony committed in Guam or any crime committed outside Guam that would be a felony under Guam law, any crime involving personal injury, and any crime involving a breach of official duty if done willfully.

(e) *Fund* means the Notary Public Revolving Fund as set forth in this Chapter.

(f) *Jurat* means a notarial act in which a notary certifies that a signer, whose identity is proven on the basis of satisfactory evidence, has made, in the notary's presence, a voluntary signature and taken an oath or affirmation vouching for the truthfulness of the signed document.

(g) *Notarial act* and *notarization* mean any act that a notary is empowered to perform under Section 33301 of this Chapter.

(h) *Notarial certificate* and *certificate* mean that part of or attachment to a notarized document for completion by the notary and bearing the notary's signature and seal.

(i) *Notary Public* and *notary* mean any person commissioned to perform notarial acts under this Chapter.

(j) *Oath* and *affirmation* mean a notarial act or part thereof in which a notary certifies that a person made a vow in the presence of the notary on penalty of perjury, with reference made to a Supreme Being for an oath.

(k) *Official misconduct* means:

(1) a notary's performance of or failure to perform any act prohibited or mandated, respectively, by this Chapter or by any other law in connection with a notarization; or

(2) a notary's performance of a notarial act in a manner found by the Attorney General to be negligent or against the public interest.

(l) *Personal knowledge of identity* means familiarity with an individual resulting from contact with that individual over a period of time sufficient to eliminate every

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reasonable doubt that the individual has the identity claimed.

(m) *Satisfactory evidence of identity* means identification of an individual based on:

(1) any current passport or

(2) an official identification issued by a federal or state government with the individual's photograph and signature or

(3) personal knowledge of identity.

(n) *State* includes any state of the United States, any United States territory, possession, or commonwealth, and the District of Columbia.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), amended by P.L. 23-081:2 (Mar. 12, 1996).

2015 NOTE: Subsection designations in (k) and (m) were altered to reflect the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 33105. Effective Date.

This Chapter shall take effect ninety (90) days following its enactment into law. Any notary public who is commissioned prior to the effective date of this Chapter shall continue to exercise the duties and responsibilities until his or her commission expires. Subsequent application for another commission shall be made in compliance with the provisions of this Chapter.

§ 33106. Notary Public Revolving Fund.

Notwithstanding any law to the contrary, there is established a fund to be known as the "Notary Public Revolving Fund" (the Fund), which *shall* be maintained separate and apart from other funds of the government of Guam. All funds generated from fees under this Chapter for application, authentication, copying, and any other government fee required by this Chapter *shall* be deposited into the Fund. The Fund *shall* be used by the Office of the Attorney General for the purpose of the administration of the notary program, including personnel costs for training, notary educational programs, conferences and

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any administrative and equipment costs, subject to appropriation by *I Liheslaturan Guåhan*.

SOURCE: Added by P.L. 23-081:3 (Mar. 12, 1996), repealed and added by P.L. 30-059:2 (Nov. 25, 2009).

**ARTICLE 2
COMMISSIONING**

PART 1 - COMMISSION, QUALIFICATIONS, TERM

- § 33201. Commissioning.
- § 33202. Jurisdiction and Term.
- § 33202.1. Extended Jurisdiction Authorized.
- § 33203. Bond.
- § 33204. Recommissioning.

§ 33201. Commissioning.

(a) Except as provided in subsection (c), the Attorney General shall commission as a notary any qualified person who submits an application in accordance with this Chapter.

(b) A person qualified for a notarial commission must:

- (1) Be at least eighteen (18) years of age;
- (2) Reside on Guam;
- (3) Read and write English;
- (4) Be a citizen of the United States;
- (5) Pass a written examination as required under § 33212 of this Chapter;
- (6) Submit an application containing no significant misstatement or omission of fact.

(c) The Attorney General may deny an application based on:

- (1) The applicant's conviction of a crime involving dishonesty or moral turpitude;

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(2) Revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this territory or any other state; or

(3) The applicant's official misconduct as defined in § 33104 of this Chapter whether or not disciplinary action resulted.

§ 33202. Jurisdiction and Term.

A person commissioned as a notary by the Attorney General may perform notarial acts in Guam for a term of four (4) years, unless the notary's commission is revoked under § 33510 or the notary has resigned under § 33552 of this Chapter.

§ 33202.1. Extended Jurisdiction Authorized.

(a) As authorized by the Attorney General of Guam, a Guam commissioned notary public residing on Guam shall be authorized to perform notarial acts in foreign countries for Guam residents or individuals requiring a document to be notarized for and recorded in Guam in a manner strictly compliant with this Chapter. The accomplishment of all requisite notarial journal entries and the compilation of all other mandatory records shall be adhered to, and the journal and all requisite records pertaining to the notarial act shall subsequently be maintained on Guam as provided pursuant to this Chapter.

(b) The only documents authorized to be notarized in a foreign country shall be limited to those relating to real estate transactions, and must be recorded at the Guam Department of Land Management or any other government agency as may be required.

SOURCE: Added by P.L. 33-101:2 (Dec. 1, 2015).

2015 NOTE: Subsection designation added and altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority of 1 GCA § 1606.

§ 33203. Bond.

No notarial commission may be issued unless the notary has produced, as part of the application, evidence that, upon commissioning, a bond is in force in the sum of One Thousand

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Dollars (\$1,000). The bond must be executed by a licensed surety for the whole term of the notary's commission, terminating on its expiration date, with payment of the bond's principal to any person conditioned upon the notary's misconduct as defined in Section 33104 of this Chapter. The bond shall not be canceled, revoked or modified without the express written authorization of the Attorney General, which shall be given only in extraordinary circumstances.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), amended by P.L. 23-081:4 (Mar. 12, 1996).

§ 33204. Recommissioning.

An applicant for recommissioning as a notary shall submit a new application and comply anew with the provisions of this Article 2.

PART 2 – APPLICATION

- § 33210. Application.
- § 33211. Statement of Personal Qualifications.
- § 33212. Examination.
- § 33213. Notarized Declaration.
- § 33214. Fees.
- § 33215. Confidentiality.
- § 33220. Government employees.

§ 33210. Application.

Every application for a notarial commission must be made on forms provided by the Attorney General and include, at least:

- (a) A statement of the applicant's personal qualifications;
- (b) When required, an examination written by the applicant;
- (c) A notarized declaration by the applicant;
- (d) An application fee; and
- (e) Evidence of the bond required by 33203 of this Chapter.

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2015 NOTE: Subsection designations were altered to reflect the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 33211. Statement of Personal Qualifications.

The application must show:

- (a) The applicant's age;
- (b) The applicant's residence and business address in Guam;
- (c) That the applicant can read and write English;
- (d) All criminal convictions of the applicant, including any pleas of guilty and nolo contendere or no contest; and
- (e) All issuances, denials, revocations, suspensions, restrictions and resignations of a notarial commission or other professional license involving the applicant in Guam or in any state.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), amended by P.L. 23-081:5 (Mar. 12, 1996).

2015 NOTE: Subsection designations were altered to reflect the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 33212. Examination.

(a) Every first-time applicant shall be required to pass a written examination that tests the applicant's knowledge of notarial laws and procedures and is based on materials distributed by the Attorney General with the application forms.

(b) The Attorney General shall give public notice of the examination requirement by publication in a newspaper of general circulation at least ninety (90) days in advance of the time at which examinations will first be given.

(c) Persons authorized to administer oaths by any other law of Guam, and attorneys licensed to practice in Guam, shall not be required to take an examination.

§ 33213. Notarized Declaration.

Every applicant for a notarial commission shall sign the following declaration in the presence of a notary:

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"Declaration of Applicant

I, _____ (name of applicant), solemnly swear (or affirm) under penalty of perjury that the personal information in this application is true, complete, and correct; that I have read carefully the materials describing the duties of a notary in Guam; and that I will perform, to the best of my ability all notarial acts in accordance with law.

_____ (signature of applicant)"

(Notarial certificate as specified in § 33452 of this Chapter.)

§ 33214. Fees.

Every applicant for a notarial commission, except for applicants who are government employees, *shall* pay to the Treasurer of Guam a non-refundable fee of One Hundred Dollars (\$100). All fees *shall* be deposited into the Notary Public Revolving Fund and used according to § 33106 of this Chapter.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), amended by P.L. 23-081:6 (Mar. 12, 1996), repealed and added by P.L. 30-059:3 (Nov. 25, 2009).

§ 33215. Confidentiality.

Disciplinary information in an applicant's or notary's Statement of Personal Qualifications under paragraphs (d) and (e) of § 33211 of this Chapter must be used by the Attorney General and designated territorial employees for the sole purpose of performing official duties under this Chapter and may not be disclosed to any person other than:

- (a) The applicant;
- (b) The applicant's authorized representative or surety;
- (c) A representative of federal, territorial, state, municipal or city government acting in an official capacity;
or
- (d) A person specified by court order.

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2015 NOTE: Subsection designations were altered to reflect the Compiler's alpha-numeric scheme, and references to § 33211 were altered to reflect the current codification, pursuant to 1 GCA § 1606.

PART 3 - GOVERNMENT EMPLOYEES

§ 33220. Government Employees.

§ 33220. Government Employees.

(a) The Attorney General may commission any number of government employees to act as notaries, but notaries so empowered may perform notarial acts only during their hours of employment with their respective government agencies. Such acts include the notarization for members of the public or for fellow employees, of any forms or statements which any government agency requires before transmittal from or submission to such agency, or any other notarial act; provided, however, that such government employees may charge no fees for notarial services.

(b) Notaries empowered under this section may perform notarial acts in any part of Guam for a term of four (4) years, and shall seek recommissioning by the Attorney General for each subsequent term.

(c) Except as provided in this section, an applicant for a notarial commission under this section must meet the requirements in Sections 33210 through 33215 of this Chapter. The application shall include a written declaration signed by the applicant's department or agency head stating that the commissioning is in the public interest. The fee imposed in Section 33214 of this Chapter is waived for employees of the government of Guam.

(d) The premium on the bond and costs of all notarial supplies for a notary empowered under this section shall be paid from funds of the notary's government agency.

(e) No fees may be charged for notarial services performed by a notary empowered under this section.

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(f) Upon leaving their employment with the government of Guam, notaries empowered under this section shall resign their commissions immediately and dispose of their journals and seals as provided in Sections 33553 and 33554 of this Chapter.

(g) Unless otherwise specified in this section, a notary empowered under this section shall comply with all provisions of this Chapter.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), repealed and added by P.L. 21-136:31 (Sept. 29, 1992, and amended by P.L. 23-081:7 (Mar. 12, 196).

**ARTICLE 3
POWERS AND LIMITATIONS**

PART 1 - POWERS

- § 33301. Powers.
- § 33302. Disqualifications.
- § 33303. Impartiality.
- § 33304. False Certificate.
- § 33305. Testimonials.
- § 33306. Unauthorized Practice of Law.

§ 33301. Powers.

A notary is empowered to perform the following notarial acts:

- (a) Acknowledgments;
- (b) Oaths and affirmations;
- (c) Jurats; and
- (d) Copy certifications.

2015 NOTE: Subsection designations were altered to reflect the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 33302. Disqualifications.

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A notary is disqualified from performing notarial acts if the notary:

- (a) Is a signer of or named in the document that is to be notarized;
- (b) Will receive directly from a transaction connected with the notarial act any commission, fee (except for attorneys), advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in § 33310 of this Chapter; or
- (c) Is related to the person whose signature is to be notarized as a spouse, sibling, or lineal ascendant or descendant as defined in 15 GCA § 809 of the Estates & Probate Code of Guam.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), and amended by P.L. 23-081:8 (Mar. 12, 1996).

2015 NOTE: Subsection designations were altered to reflect the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 33303. Impartiality.

(a) A notary may not influence a person to enter into or not to enter into a lawful transaction involving a notarial act by the notary.

(b) A notary shall perform notarial acts in lawful transactions for any requesting person who tenders the appropriate fee specified in § 33310 of this Chapter.

§ 33304. False Certificate.

A notary may not execute a certificate containing a statement known by the notary to be false or perform any official action with intent to deceive or defraud.

§ 33305. Testimonials.

A notary may not endorse or promote any product, service, contest, or other offering if the notary's title or seal is used in the endorsement or promotional statement.

§ 33306. Unauthorized Practice of Law.

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(a) A non-attorney notary may complete but may not select notarial certificates, and may not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.

(b) This section does not preclude a notary who is duly qualified in a particular profession from giving advice relating to matters in that professional field.

(c) A notary shall not make representations to have powers, qualifications, rights or privileges that the office of notary does not have, including the providing of legal advice unless the notary is also a licensed attorney.

(d) A non-attorney notary who advertises notarial services in any language shall include in the advertisement, notice, or sign the following statement, prominently displayed in the same language:

“I am not an attorney and have no authority to give advice on any legal matters”.

PART 2 – FEES

§ 33310. Fees.

§ 33311. Notice of Fees.

§ 33310. Fees.

(a) Subject to the provisions contained in this section, every Notary Public may demand and receive the following fees:

(1) For taking acknowledgment or proof of a deed or other instrument, to include the seal and writing of the certificate, for the first two (2) signatures, Ten Dollars (\$10) each; and for each additional signature, Eight Dollars (\$8);

(2) For administering an oath or affirmation, Ten Dollars (\$10);

(3) For every certificate of a certified true copy, and the seal, Ten Dollars (\$10).

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Provided, however, that in no event may a Notary Public who is an employee of the government of Guam demand or receive any fee or compensation of any kind for performing any duty of a Notary Public during normal hours of work in his or her employment by the government.

(b) A notary may charge a reasonable travel fee when traveling to perform a notarial act if:

(1) The notary explains to the person requesting the notarial act that the travel fee is separate from the notarial fee in subsection (a) and is neither specified nor mandated in law; and

(2) The notary and the person requesting the notarial act agree upon the travel fee in advance.

(c) The Attorney General shall annually review the fees set out in subsection (a) of this section, and, after such review, if the Attorney General determines that such fees should be altered, the Attorney General may do so in the manner and under the procedures set out in the Administrative Adjudication Law.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), and amended by P.L. 23-081:9 (Mar. 12, 1996).

§ 33311. Notice of Fees.

Notaries shall display an English language schedule of fees for notarial acts, as specified in 33310(a) of this Chapter. No part of any displayed notarial fee schedule may be printed in smaller than 10-point type.

**ARTICLE 4
JOURNAL AND SEAL**

PART 1 – JOURNAL

- § 33401. Journal.
- § 33402. Entries in Journal.
- § 33403. Signature in Journal.
- § 33404. Inspection, Copying and Disposal of Journal.

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§ 33401. Journal.

A notary shall keep, maintain, protect as a public record, and provide for lawful inspection a chronological, permanently bound, official journal of notarial acts, containing numbered pages.

§ 33402. Entries in Journal.

(a) For every notarial act, the notary shall record in the journal before the time of notarization at least the following:

(1) The date and time of day of the notarial act;

(2) The type of notarial act;

(3) A description of the document or proceeding;

(4) The signature and printed name and address of each person for whom a notarial act is performed;

(5) The evidence of identity of each person for whom a notarial act is performed, in the form of a description of the identification document, its issuing agency, its serial or identification number, and the date of its issuance if expired, or a statement by the notary that he or she has personal knowledge of identity of the person;

(6) The fee, if any, charged for the notarial act; and

(7) The address where the notarization was performed if not the notary's business address.

(b) A notary shall retain as an official record a duplicate photocopy of each certified copy.

(c) If refusing to perform or complete a notarial act, the notary shall record in the journal the reasons other than lack of proof of identification.

SOURCE: Amended by P.L. 23-81:10.

§ 33403. Signature in Journal.

At the time of notarization, the notary's journal must be signed, as applicable, by:

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- (1) The person for whom a notarial act is performed;
and
- (2) The two (2) witnesses to a signature by mark of a document that is notarized.

§ 33404. Inspection, Copying and Disposal of Journal.

(a) Except as otherwise provided in subsection (e) of this section, and notwithstanding 5 GCA, Chapter 10 or any other law, a journal of notarial acts is an official public record that may be inspected only in the notary's presence by an individual whose identity is personally known to the notary or proven on the basis of satisfactory evidence, who specifies the notarial act sought, and who signs the notary's journal.

(b) Upon request in compliance with subsection (a) of this section, the notary shall provide a photocopy of an entry in the journal at a cost of not more than Five Dollars (\$5) per photocopy. If a certified photocopy is requested, the cost is as specified in Section 33310 of this Chapter.

(c) A notary shall safeguard the journal and other notarial records as valuable public documents and never destroy them, except at the direction of the Attorney General.

(d) The journal must be kept in the exclusive custody of the notary, and may not be used by any other notary or surrendered to an employer upon termination of employment.

(e) Upon the request of the Attorney General or upon resignation, revocation, or expiration of a notarial commission, or death of the notary, whichever comes first, the notarial journal shall be delivered by personal service, certified mail or other means providing a receipt to the Attorney General's office.

SOURCE: Amended by P.L. 23-81:11.

PART 2 - SIGNATURE AND SEAL

- § 33410. Official Signature.
- § 33411. Official Seal.
- § 33412. Seal Impression.
- § 33413. Obtaining a Seal.

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§ 33410. Official Signature.

In completing a notarial act, a notary shall sign on the notarial certificate exactly and only the name indicated on the notary's commission.

§ 33411. Official Seal.

(a) A notary shall keep an official notarial seal that is the exclusive property of the notary and that may not be used by any other person or surrendered to an employer upon termination of employment.

(b) Upon resignation, revocation, or expiration of a notarial commission, or death of the notary, any seal having the expiration date of the commission on it must be destroyed in accordance with Article 7 of this Chapter. A new seal must be obtained, under § 33413 of this Chapter, for any new commission. The notary need not destroy the embossing seal, if any, nor obtain a new embossing seal, if there is not time lapse between the expiration of one commission and the granting of another commission.

§ 33412. Notarial Seals.

(a) Near the notary's official signature on a notarial certificate, the notary shall affix in black ink a sharp, legible, and photographically reproducible inked stamp impression of the notarial seal that must include the following elements:

(1) The notary's name exactly as is indicated on the commission;

(2) The words "Notary Public, in and for the Territory of Guam, U.S.A." and "My commission expires (commission expiration date)";

(3) The address of the notary's business or residence;
and

(4) A rectangular border surrounding the required words.

(b) Illegible information within an inked stamp impression of the notarial seal may be typed or printed legibly by the notary

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adjacent to but not within the impression. The commission expiration date must be an integral part of the inked stamp notarial seal and may not be inserted into the impression.

(c) An embossed seal impression that may be photographically reproducible and which shall contain the words “Notary Public in and for the Territory of Guam, USA,” and the notary’s name exactly as indicated on the commission shall be used in addition to but not in lieu of the seal described in subsection (a).

SOURCE: Added by P.L. 21-106:2 (May 29, 1992), and amended by P.L. 23-081:12 (Mar. 12, 1996).

§ 33413. Obtaining a Seal.

(a) A vendor may not provide a notary seal, either inking or embossing, to a person claiming to be a notary, unless the person presents the following documents, which the vendor must retain for a period of three (3) years: A photocopy of the person’s notarial commission, attached to a notarized declaration substantially as follows:

“Application for Notary Seal

I, _____ (name of person requesting the seal), declare that I am a Notary Public duly commissioned by the Territory of Guam, with a commission starting date of _____, a commission expiration date of _____, and a commission number of _____. As evidence, I attach to this paper a photocopy of my commission.

(signature of person requesting the seal)”

(b) A notary applying for a seal as a result of a name change shall present a copy of the Confirmation of Notary’s Name Change from the Attorney General in place of the Application for a Notary Seal.

(c) A vendor who fails to keep a document specified in this section is guilty of a petty misdemeanor.

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**ARTICLE 5
CERTIFICATES**

- § 33450. General Acknowledgment.
- § 33452. Jurat.
- § 33453. Certified Copy.

§ 33450. General Acknowledgment.

A notary shall use a certificate in substantially the following form in notarizing the signature or mark of persons acknowledging for themselves or as partners, corporate officers, attorneys in fact, or in other representatives capacities, or may use such other forms of certificates as are otherwise authorized by statute:

“Territory of Guam.

On this ____ day of _____, _____ before me, the undersigned notary, personally appeared, _____, the person(s) whose name(s) (is) (are) signed on the preceding or attached document, and acknowledged to me that (he) (she) (they) signed it voluntarily for its stated purpose(.

(as partner for _____, a partnership.)

(as _____ for _____, a corporation.)

(as attorney in fact for _____, the principal.)

(as _____ for _____ (a) (the) _____.)

(by mark before ___ and _____, subscribing witnesses.)

(official signature and seal of notary)”

SOURCE: Added by P.L. 21-106:2 (May 29, 1992). First paragraph amended by P.L. 21-136:32 (Sept. 20, 1992).

§ 33452. Jurat.

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A notary shall use a jurat certificate in substantially the following form in notarizing a signature on an affidavit, deposition, or other sworn or affirmed written declaration:

“Territory of Guam.

Subscribed and sworn to before me this ____ day
of _____, 19__ by _____.

(official signature and seal of notary)”

§ 33453. Certified Copy.

A notary shall use a certificate in substantially the following form in notarizing a certified copy:

“Territory of Guam.

On this ____ day of _____, ____, I certify that the preceding or attached document, and the duplicate retained by me as a notarial record, are true, exact, (complete) (stated portion of _____ [named document]), and unaltered photocopies made by me of _____ (description of the document), (presented to me by the document’s custodian, _____,) (held in my custody as a notarial record,) and that, to the best of my knowledge, are neither public records nor publicly recordable documents, certified copies of which are available from an official source other than a notary.

(official signature and seal of notary)”

**ARTICLE 6
LIABILITY AND REMEDIES**

PART 1 - LIABILITY

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§ 33501. Liability of Notary, Surety and Employer.

§ 33502. Proximate Cause.

§ 33501. Liability of Notary, Surety and Employer.

(a) A notary is liable to any person for all damages proximately caused that person by the notary's official misconduct in performing a notarization.

(b) A surety for a notary's bond is liable to any person for damages proximately caused that person by the notary's official misconduct in performing a notarization, but this liability may not exceed the penalty of the bond or of any remaining bond funds that have not been expended on other claimants. Regardless of the number of claimants, a surety's total liability may not exceed the penalty of the bond.

(c) An employer of a notary is liable to any person for all damages proximately caused that person by the notary's official misconduct in performing a notarization related to the employer's business, only if the employer directed, encouraged, consented to, or approved the notary's misconduct, either in the particular transaction, or as implied by previous actions in at least one (1) similar transaction.

(d) An employer of a notary is liable for all damages recovered from the notary as a result of official misconduct that was coerced by threat of the employer, if the threat, such as of demotion or dismissal, was made in reference to the particular notarization, or implied by the employer's previous action in at least one (1) similar transaction. In addition, the employer is liable to the notary for damages caused the notary by demotion, dismissal, or other action resulting from the notary's refusal to commit official misconduct.

(e) If the employer is the government of Guam, damages may be recovered only through the procedures of the Government Claims Act.

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§ 33502. Proximate Cause.

Recovery of damages against a notary, surety, or employer does not require that the notary's misconduct be the sole proximate cause of the damages.

PART 2 – REVOCATION

§ 33510. Revocation.

§ 33511. Other Remedies.

§ 33512. Criminal Prosecution.

§ 33513. Additional Remedies not Prevented.

§ 33510. Revocation.

(a) The Attorney General may revoke a notarial commission on any ground for which an application for a notarial commission may be denied under 33201 of this Chapter.

(b) Resignation or expiration of a notarial commission does not terminate or preclude an investigation into a notary's conduct by the Attorney General, who may pursue the investigation to a conclusion, whereupon it must be made a matter of public record whether or not the findings would have been grounds for revocation.

§ 33511. Other Remedies.

(a) The Attorney General may deliver a written Official Warning to Cease Misconduct to any notary whose actions are judged to be official misconduct under § 33104 of this Chapter.

(b) The Attorney General may seek a court injunction to prevent a person from violating any provision of this Chapter.

§ 33512. Criminal Prosecution.

A notary who knowingly and repeatedly performs or fails to perform any act prohibited or mandated respectively by this Chapter is guilty of a third degree felony. Except as authorized under Article 10 of this Chapter, a notary who knowingly performs a notarization for a person who does not appear before the notary or at the notary's office is guilty of a third degree felony.

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SOURCE: Added by P.L. 21-106:1 (May 29, 1992). Amended by P.L. 35-100:3 (Oct. 29, 2020).

§ 33513. Additional Remedies not Prevented.

The remedies of this Chapter supplement other remedies and penalties provided by law.

PART 3 - WILLFUL CRIMES

- § 33520. Impersonation.
- § 33521. Wrongful Possession.
- § 33522. Improper Influence.

§ 33520. Impersonation.

Any person not a notary who knowingly acts as or otherwise impersonates a notary is guilty of a third degree felony. Impersonation includes performing notarial acts when the commission of the person performing has expired or been revoked or the person has resigned his or her commission.

SOURCE: Added by P.L. 21-106:2 (May 29, 1992). Amended by P.L. 23-081:13 (Mar. 12, 1996).

§ 33521. Wrongful Possession.

Any person who knowingly obtains, conceals, defaces, or destroys the seal, journal, or official records of a notary is guilty of a third degree felony.

§ 33522. Improper Influence.

Any person who knowingly solicits, coerces, or in any way influences a notary to commit official misconduct is guilty of a third degree felony.

**ARTICLE 7
MISCELLANEOUS**

- § 33550. Change of Address.
- § 33551. Change of Name.
- § 33552. Lost Journal or Seal.

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- § 33553. Resignation.
- § 33554. Disposition of Seal and Journal.
- § 33555. Death.
- § 33556. Copying Fees.

§ 33550. Change of Address.

Within thirty (30) days after the change of a notary's business or residence address, the notary shall deliver to the Attorney General, by certified mail or other means providing a receipt, a signed notice of the change, giving both old and new addresses.

§ 33551. Change of Name.

(a) A notary with a change of name shall deliver to the Attorney General a signed notice of the change, giving both old and new names and the effective date of the new name.

(b) Starting on the effective date of the change, a notary with a new name officially shall sign that name on all notarial certificates, but only after the following steps have been completed:

- (1) The notice described in subsection (a) of this section has been delivered;
- (2) A Confirmation of Notary's Name Change has been received from the Attorney General;
- (3) A new seal bearing the new name exactly as in the Confirmation has been obtained; and
- (4) The surety for the notary's bond has been informed in writing.

§ 33552. Lost Journal or Seal.

Within ten (10) days after the loss or theft of any official journal or seal, the notary shall deliver to the Attorney General, by certified mail or other means providing a receipt, a signed notice of the loss or theft, and inform the appropriate law enforcement agency in the case of theft.

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§ 33553. Resignation.

A notary who resigns a notarial commission shall deliver to the Attorney General, by certified mail or other means providing a receipt, a notice indicating the effective date of resignation.

2015 NOTE: Subsection designation was removed to adhere to the Compiler's general codification scheme pursuant to the authority granted by 1 GCA § 1606.

§ 33554. Disposition of Seal and Journal.

(a) When a notarial commission is resigned, revoked, or expires, the notary shall:

(1) As soon as reasonably practical, destroy the official seal; and

(2) Within thirty (30) days of the after the effective date of resignation, revocation or expiration, deliver to the Attorney General, by certified mail or other means providing a receipt, the notarial journal and records.

§ 33555. Death.

If a notary dies during the term of commission, the notary's heirs or legal representative, as soon as reasonably practical after death, shall deliver to the Attorney General by certified mail or other means providing a receipt

(a) a notice of the date of death, and

(b) the notarial journal and records.

2015 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

§ 33556. Copying Fees.

Notwithstanding 5 GCA § 10203, or any other law, the Attorney General may charge a copying fee not to exceed Two Dollars (\$2) for the first page of any requested document under this Chapter, such as Notarial Commissions, Certificates of Authority and the Model Notary Law, not to exceed One Dollar (\$1) for each additional page. All fees shall be deposited into the Fund.

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SOURCE: Added by P.L. 23-081:14 (Mar. 12, 1996).

**ARTICLE 8
AUTHENTICATION**

- § 33601. Evidence of Authenticity of Notarial Act.
- § 33602. Certificate of Authority.
- § 33603. Apostille.

§ 33601. Evidence of Authenticity of Notarial Act.

(a) The authenticity of the official notarial seal and signature of a notary of Guam may be evidenced by:

(1) A Certificate of Authority from the Attorney General, authenticated as necessary;

(2) An Apostille in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961; *or*

(3) An Apostille as specified by the Hague Convention must be attached to any document requiring authentication that is sent to a nation that has signed and ratified the Convention and, within the government of Guam, may *only* be issued by the Director *or* Deputy Director of the Department of Administration, with the Great Seal of Guam affixed thereto by *I Segundu na Maga'lahi* (the Lieutenant Governor). When issuing an Apostille, the Department of Administration *shall* verify the authenticity of the notary's commission and signature with the Attorney General.

(b) The Attorney General may charge a Fifty Dollar (\$50) non-refundable fee for a Certificate of Authority. The Department of Administration may charge a Fifty Dollar (\$50) non-refundable fee for an Apostille. Such fees *shall* be deposited into the Notary Public Revolving Fund.

SOURCE: Added by P.L. 21-106:2 (May 20, 1992), amended by P.L. 23-081:15 (Mar. 12, 1996), and repealed and added by P.L. 30-059:4 (Nov. 25, 2009).

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§ 33602. Certificate of Authority.

A certificate of authority evidencing the authenticity of the official notarial seal and signature of a notary of Guam must be in substantially the following form:

“Certificate of Authority for a Notarial Act

I, _____ (name, Attorney General of the Territory of Guam, U.S.A.) certify that (name of notary), the person named in the seal and signature on the attached document(,) is a notary public for the Territory of Guam, U.S.A., and was authorized to act as such at the time of the document’s notarization.

To verify this Certificate of Authority for a Notarial Act, I have affixed below my signature and seal of office this _____ day of _____, _____.”

§ 33603. Apostille.

An Apostille prescribed by the Hague Convention, as cited in 28 U.S.C.A. in the annotations to Rule 44 of the Federal Rules of Civil Procedure, must be in the form of a square with sides at least nine (9) centimeters long and contain exactly the following wording:

“APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Country: United States of America

This public document

2. has been

signed by _____

3. acting in

the capacity of _____

4. bears the seal/stamp of _____

CERTIFIED

5. at _____ 6. the _____

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7. by _____

8. No. _____

9. Seal/Stamp

10. Signature

”

SOURCE: Amended by P.L. 23-81:16.

**ARTICLE 9
OFFICERS IN THE ARMED FORCES
AUTHORIZED TO ACT AS NOTARIES**

§ 33701. Officers May Perform Notarial Acts.

§ 33701. Officers May Perform Notarial Acts.

Any commissioned officer of the Armed Forces of the United States, while on active duty, who is authorized to administer oaths by the Uniform Code of Military Justice, may administer oaths and affirmations, take depositions, affidavits and acknowledgements of deeds, grants, transfers and other instruments of writing, and powers of attorney, of any person who for the time being is on active duty with the Armed Forces of the United States, in the same manner as a Notary Public.

Any oath or affirmation administered, or deposition or affidavit taken, or acknowledgment certified by such officer hereunder, if otherwise in accordance with law, shall be effectual for all purposes as if administered, taken or certified by a Notary Public appointed and commissioned under this Chapter.

NOTE: Section 2 of P.L. 21-106 (May 20, 1992) stated:

Effective date. This Act shall go into effect ninety (90) days after its approval, except that the Attorney General shall forthwith prepare the necessary examinations and cause to be promulgated the necessary rules and regulations governing the procedures set out in this Act.

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**ARTICLE 10
REMOTE ONLINE NOTARIZATION**

SOURCE: Entire Article added by P.L. 35-100:1 (Oct. 29, 2020).

2020 NOTE: Pursuant to P.L. 35-0100:5 (Oct. 29, 2020), effective upon enactment, the Office of the Attorney General has 45 days from enactment to implement administrative requirements.

- § 33801. Definitions.
- § 33802. Standards for Remote Online Notarization.
- § 33803. Registration Required.
- § 33804. Authority to Perform Remote Online Notarizations.
- § 33805. Electronic Record of Remote Online Notarizations.
- § 33806. Use of Electronic Journal, Signature, And Seal.
- § 33807. Remote Online Notarization Procedures.
- § 33808. Fees for Remote Online Notarization.
- § 33809. Termination of Remote Online Notary Public's Commission.
- § 33810. Wrongful Possession of Software or Hardware; Criminal Offense.
- § 33811. Conflict.

§ 33801. Definitions.

As used in this Article:

(a) *Appear, or personally appear, or in the presence of* means:

(1) being in the same physical location as another person and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(2) interacting with another individual by means of communication technology that complies with the provisions of this Chapter.

(b) *Communication technology* means an electronic device or process that allows a notary public physically

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located in Guam and a remotely located individual to communicate with each other simultaneously by sight and sound, and which, as necessary, makes reasonable accommodations for individuals with vision, hearing, or speech impairments.

(c) *Credential analysis* means a process or service that meets the standards established by the Attorney General of Guam through which a third person affirms the validity of a government-issued identification credential through review of public and proprietary data sources.

(d) *Electronic* means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(e) *Electronic record* means information that is created, generated, sent, communicated, received, or stored by electronic means.

(f) *Electronic seal* means information within a notarized electronic record that confirms the remote online notary public's name, jurisdiction, identifying number and commission expiration date, and generally corresponds to information in notary seals used on paper documents.

(g) *Electronic signature* means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic document.

(h) *Identity proofing* means a process or service operating according to standards established by the Attorney General of Guam through which a third person affirms the identity of an individual:

(1) by means of dynamic knowledge-based authentication such as a review of personal information from public or proprietary data sources; or

(2) by means of analysis of biometric data such as, but not limited to, facial recognition, voiceprint analysis, or fingerprint analysis.

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(i) *Notarial act* means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under Guam law. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, and certifying or attesting a copy.

(j) *Outside the United States* means outside the geographic boundaries of Guam, a state of the United States, the District of Columbia, or any other territory, commonwealth, or insular possession subject to the jurisdiction of the United States.

(k) *Principal* means an individual:

(1) whose electronic signature is notarized in a remote online notarization; or

(2) making an oath or affirmation or an acknowledgement other than in the capacity of a witness for the remote online notarization.

(l) *Remote online notarial certificate* is the form of an acknowledgement, jurat, verification on oath or affirmation, or verification of witness or attestation that is completed by a remote online notary public and:

(1) contains the online notary public's electronic signature, electronic seal, title, and commission expiration date;

(2) contains other required information concerning the date and place of the remote online notarization;

(3) otherwise conforms to the requirements for an acknowledgement, jurat, verification on oath or affirmation, or verification of witness or attestation under Guam law; and

(4) indicates that the person making the acknowledgement, oath or affirmation appeared remotely online.

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(m) *Remote online notarization or remote online notarial act* means a notarial act performed by means of communication technology that meets the standards adopted under this Article.

(n) *Remote online notary public* means a notary public who has been authorized by the Attorney General of Guam to perform remote online notarizations under this Article.

(o) *Remote presentation* means transmission to the remote online notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the remote online notary public to:

(1) identify the individual seeking the remote online notary public's services; and

(2) perform credential analysis.

(p) *Remotely located individual* means an individual who is not in the physical presence of the notary.

§ 33802. Standards for Remote Online Notarization.

The Attorney General of Guam shall maintain standards for remote online notarization in accordance with the Rules for Remote Online Notarization, pursuant to Article 3 of Chapter 1, Title 19, Guam Administrative Rules and Regulations.

§ 33803. Registration Required.

(a) A notary public commissioned in Guam may become a remote online notary public in accordance with this Section. Before a notary performs a remote online notarization, he or she must apply with the Office of the Attorney General of Guam in accordance with the Rules for Remote Online Notarization and identify the technology that the electronic notary public intends to use, which must conform to the Rules for Remote Online Notarization.

(b) Before each registration to perform electronic notarial acts, an individual shall complete a course of instruction as approved by the Attorney General of Guam and pass an examination based on the course. The content of the course shall

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include notarial rules, procedures, and ethical obligations pertaining to electronic notarization in this Chapter. The course may be taken in conjunction with any course required by the Attorney General of Guam.

(c) Unless terminated pursuant to this Chapter, the term of registration to perform electronic notarial acts shall begin on the registration starting date set by the Attorney General of Guam and shall continue as long as the notary public's current commission remains valid.

(d) An individual registering to perform electronic notarial acts shall submit to the Attorney General of Guam an application in a format prescribed by the Attorney General which includes:

(1) proof of successful completion of the course and examination required under Subsection (b) of this Section;

(2) disclosure of any and all license or commission revocations or other disciplinary actions against the registrant;

(3) any other information, evidence, or declaration required by the Attorney General of Guam; and

(4) evidence that the surety bond prescribed by this Chapter for performance of electronic notarial acts by communication technology has been issued.

(e) Upon the applicant's fulfillment of the requirements for registration under this Article, the Attorney General of Guam shall approve the registration and issue to the applicant a unique registration number.

(f) The Attorney General of Guam may reject a registration application if the applicant fails to comply with any section of this Article.

§ 33804. Authority to Perform Remote Online Notarizations.

A remote online notary public physically located in Guam may perform a remote online notarial act using communication technology in accordance with this Article and the Rules for Remote Online Notarization for a remotely located individual who is physically located:

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- (a) in Guam;
- (b) outside Guam but within the United States; or
- (c) outside the United States if:
 - (1) the remote online notary public has no actual knowledge that the act of making the statement or signing the record is prohibited in the jurisdiction in which the person is located; and
 - (2) the person placing his or her electronic signature on the electronic record confirms to the remote online notary public that the requested remote online notarial act and the electronic record:
 - (A) are part of or pertain to a matter that is to be filed with or is currently before a court, governmental entity, or other entity in the United States;
 - (B) relates to property located in the United States; or
 - (C) relates to a transaction substantially connected to the United States.

§ 33805. Electronic Record of Remote Online Notarizations.

- (a) A remote online notary public shall keep a secure electronic journal of each remote online notarial act performed by the remote online notary public. The electronic journal must contain for each remote online notarization:
 - (1) the date and time of the notarization;
 - (2) the type of notarial act;
 - (3) the type, the title, or a description of the electronic record or proceeding;
 - (4) the printed name and address of each principal involved in the transaction or proceeding;
 - (5) evidence of identity of each principal involved in the transaction or proceeding in the form of:

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(A) a statement that the person is personally known to the remote online notary public;

(B) a notation of the type of identification document provided to the remote online notary public;

(C) a record of the identity verification made under this Article, if applicable, or

(D) the following:

(i) the printed name and address of each credible witness swearing to or affirming the person's identity; and

(ii) for each credible witness not personally known to the remote online notary public, a description of the type of identification documents provided to the remote online notary public; and

(6) the fee, if any, charged for the notarization.

(b) The remote online notary public shall create an audio and video copy of the performance of the notarial act.

(c) The remote online notary public shall take reasonable steps to:

(1) ensure the integrity, security, and authenticity of remote online notarizations;

(2) maintain a backup for the electronic journal required by Subsection (a) and the recording required by Subsection (b); and

(3) protect the backup record from unauthorized use.

(d) The electronic journal required by Subsection (a) and the recording required by Subsection (b) shall be maintained for at least ten (10) years after the date of the transaction or proceeding.

(1) The remote online notary public may designate as custodian of the recording and the electronic journal:

(A) the employer of the remote online notary public if evidenced by a record signed by the remote

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online notary public and the employer; or

(B) a repository meeting the standards established by the Attorney General of Guam.

(2) The Attorney General of Guam shall establish:

(A) standards for the retention of a video and audio copy of the performance of the notarial act;

(B) procedures for preservation of the audio and video copy and the electronic journal if the remote online notary public dies or is adjudicated incompetent, or if the remote online notary public's commission or authority to perform notarial acts is otherwise terminated; and

(C) standards for third party repositories for the retention of the audio and video copy of the performance of the notarial act.

§ 33806. Use of Electronic Journal, Signature, and Seal.

(a) A remote online notary public shall keep the remote online notary public's electronic journal, electronic signature, and electronic seal secure. The remote online notary public may not allow another person to use the remote online notary public's electronic signature or electronic seal.

(b) A remote online notary public shall attach the remote online notary public's electronic signature and seal to the remote online notarial certificate of an electronic record in a manner that renders any subsequent change or modification to the electronic record to be evident.

(c) A remote online notary public shall immediately notify law enforcement and the Attorney General of Guam of the theft or vandalism of the remote online notary public's electronic journal, electronic signature, or electronic seal. A remote online notary public shall immediately notify the Attorney General of Guam of the loss or use by another person of the remote online notary public's electronic journal, electronic signature, or electronic seal.

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§ 33807. Remote Online Notarization Procedures.

(a) A remote online notary public may perform a remote online notarization authorized under this Article that meets the requirements of this Article and the Rules for Remote Online Notarization regardless of whether the principal is physically located in Guam at the time of the remote online notarization.

(b) In performing a remote online notarization, a remote online notary public shall verify the identity of a person creating an electronic signature at the time that the signature is taken by using communication technology that meets the requirements of this Article and the Rules for Remote Online Notarization. Identity may be verified by:

(1) the remote online notary public's personal knowledge of the person creating the electronic signature; or

(2) each of the following:

(A) remote presentation by the person creating the electronic signature of a government-issued identification credential, including a passport or driver's license, that contains the signature and a photograph of the person:

(B) credential analysis; and

(C) identity proofing.

(c) The remote online notary public shall take reasonable steps to ensure that the communication technology used in a remote online notarization is secure from unauthorized interception.

(d) The remote online notarial certificate for a remote online notarization must state that the person making the acknowledgement or making the oath appeared remotely online.

(e) A remote online notarial act meeting the requirements of this Article satisfies the requirement of Guam law relating to a notarial act that requires a principal to appear or personally appear before a notary or that the notarial act be performed in the presence of a notary.

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§ 33808. Fees for Remote Online Notarization.

A remote online notary public or the remote online notary public's employer may charge a fee for performance of remote online notarization.

§ 33809. Termination of Remote Online Notary Public's Commission.

(a) Except as provided in Subsection (b) of this Section, a remote online notary public whose commission terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the remote online notary public's official electronic signature or seal. The remote online notary public shall certify compliance with this Subsection to the Attorney General of Guam.

(b) A former remote online notary public whose commission terminated for a reason other than revocation or a denial of renewal is not required to destroy the items described in Subsection (a) of this Section if the former remote online notary public is recommissioned as a remote online notary public with the same electronic signature and seal within three (3) months after the former remote online notary public's former commission terminated.

§ 33810. Wrongful Possession of Software or Hardware; Criminal Offense.

(a) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software or hardware enabling a remote online notary public to affix an official electronic signature or seal commits a criminal offense.

(b) An offense under this Section is a third degree felony.

§ 33811. Conflict.

In the event of a conflict between the provisions of this Article and any other laws of Guam, the provisions of this Article shall control.

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ARTICLE 11
ELECTRONIC RECORDING AUTHORIZATION

SOURCE: Added by P.L. 35-100:2 (Oct. 29, 2020).

§ 33901. Recording of an Electronic Record.

§ 33901. Recording of an Electronic Record.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by paper copy of an electronic record that complies with the requirements of this Chapter.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature if the notary has attached an electronic notarial certificate that meets the requirements of this Chapter.
