



®Notary Public Act Amendments Effective June 1, 2009

- Public Act 95-0988 - (SB 546), amends the Illinois Notary Public Act. The Act is effective June 1, 2009, and its provisions are repealed July 1, 2013. The Amendments apply to any person appointed and commissioned as an Illinois notary public.
- The Act has two parts. First, it requires an Illinois notary to create a Notarial Record (see below) including thumbprint for every grantor whose signature is to be notarized on transfers of Cook County Residential Real Property, subject to the exceptions specified below. Second, the Act defines satisfactory evidence of identification to be examined by all Illinois notaries when notarizing any document.

THE NOTARIAL RECORD

- The Act requires an Illinois notary public to create a Notarial Record when notarizing any Document of Conveyance of Cook County Residential Real Property, subject to the exempted transactions listed below. "Residential Real Property" is defined as a building or buildings located in Cook County, Illinois and containing one to four dwelling units or an individual residential condominium unit. A separate Notarial Record must be created for each person whose signature is the subject of a notarial act on a Document of Conveyance for Cook County Residential Real Property.
- The Notarial Record must include the thumbprint or fingerprint of the grantor (including grantors acting as agents under a power of attorney), as well as a description of the identification documentation presented as evidence of the grantor's identity.
- If a notarial act is performed by a notary who is a principal, employee, or agent of a Title Insurance Company, Title Insurance Agent, Financial Institution, or attorney at law, the notary shall deliver the original Notarial Record to the notary's employer within 14 days after the performance of the notarial act for retention for a period of 7 years as part of the employer's business records
- Independent notaries, those not a principal, employee, or agent of a Title Insurance Company, Title Insurance Agent, Financial Institution, or attorney at law, are required to deliver the original Notarial Record to the Recorder of Deeds of Cook County within 14 days after the performance of the notarial act accompanied by a \$5 filing fee. In that instance, the

- Notarial Record will be retained by the Recorder of Deeds of Cook County for 7 years.
- Notaries are permitted to charge a fee, up to \$25, for any notarial act which requires a Notarial Record.
 - The Notary shall not make copies of or retain an original Notarial Record.
 - The Act includes a statutory Notarial Record form. A sample Notarial Record is attached.
 - The failure of a notary to comply with the Notarial Record procedure set forth in the Act will not affect the validity of the Document of Conveyance, in the absence of fraud.
 - The Notarial Record cannot be disclosed except upon receipt of a subpoena duly authorized by a court of competent jurisdiction. The Notarial Record is not subject to disclosure under the Freedom of Information Act and shall not be made available to any other party.
 - There are seven types of transactions that are exempted:
 - (i) court-ordered and court-authorized conveyances of Residential Real Property;
 - (ii) judicial sale deeds relating to Residential Real Property;
 - (iii) deeds transferring ownership of Residential Real Property to a trust where the beneficiary is also the grantor;
 - (iv) deeds from grantors to themselves that are intended to change the nature or type of tenancy by which they own Residential Real Property;
 - (v) deeds from a grantor to the grantor and another natural person that are intended to establish a tenancy by which the grantor and the other natural person own Residential Real Property;
 - (vi) deeds executed to the mortgagee in lieu of foreclosure of a mortgage; and
 - (vii) deeds transferring ownership to a revocable or irrevocable grantor trust where the beneficiary includes the grantor.

SATISFACTORY EVIDENCE OF IDENTIFICATION

- The Act now defines satisfactory evidence of identification to be examined by all Illinois notaries when notarizing any document, (including any deed, mortgage, power of attorney, mechanics lien waiver, etc.).
- The Statute (5 ILCS 312/6-102(d)) provides: A notary public has satisfactory evidence that a person is the person whose true signature is on a document if that person: ...
 - (3) is identified on the basis of identification documents. Until July 1, 2013, identification documents are documents that are valid at the time of the notarial act, issued by a state or federal government agency, and bearing the photographic image of the individual's face and signature of the individual.
- The statutory requirement of satisfactory evidence of identification applies to the notarization of any and all documents by an Illinois notary public – not just Documents of Conveyance for Cook County Residential Real Property requiring a Notarial Record. The definition of satisfactory evidence remains in effect until July 1, 2013.

Should you have questions regarding these amendments, please contact your local Chicago Title office.