

HB2269



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2269

by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

5 ILCS 312/3-102

from Ch. 102, par. 203-102

Amends the Illinois Notary Public Act. Extends the repeal date for certain provisions concerning Notarial Records from July 1, 2013 to July 1, 2018. Effective immediately.

LRB098 10267 JDS 40446 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Notary Public Act is amended by
5 changing Section 3-102 as follows:

6 (5 ILCS 312/3-102) (from Ch. 102, par. 203-102)

7 Sec. 3-102. Notarial Record; Residential Real Property
8 Transactions.

9 (a) This Section shall apply to every notarial act in
10 Illinois involving a document of conveyance that transfers or
11 purports to transfer title to residential real property located
12 in Cook County.

13 (b) As used in this Section, the following terms shall have
14 the meanings ascribed to them:

15 (1) "Document of Conveyance" shall mean a written
16 instrument that transfers or purports to transfer title
17 effecting a change in ownership to Residential Real
18 Property, excluding:

19 (i) court-ordered and court-authorized conveyances
20 of Residential Real Property, including without
21 limitation, quit-claim deeds executed pursuant to a
22 marital settlement agreement incorporated into a
23 judgment of dissolution of marriage, and transfers in

1 the administration of a probate estate;

2 (ii) judicial sale deeds relating to Residential
3 Real Property, including without limitation, sale
4 deeds issued pursuant to proceedings to foreclose a
5 mortgage or execute on a levy to enforce a judgment;

6 (iii) deeds transferring ownership of Residential
7 Real Property to a trust where the beneficiary is also
8 the grantor;

9 (iv) deeds from grantors to themselves that are
10 intended to change the nature or type of tenancy by
11 which they own Residential Real Property;

12 (v) deeds from a grantor to the grantor and another
13 natural person that are intended to establish a tenancy
14 by which the grantor and the other natural person own
15 Residential Real Property;

16 (vi) deeds executed to the mortgagee in lieu of
17 foreclosure of a mortgage; and

18 (vii) deeds transferring ownership to a revocable
19 or irrevocable grantor trust where the beneficiary
20 includes the grantor.

21 (2) "Financial Institution" shall mean a State or
22 federally chartered bank, savings and loan association,
23 savings bank, credit union, or trust company.

24 (3) "Notarial Record" shall mean the written document
25 created in conformity with this Section by a notary in
26 connection with Documents of Conveyance.

1 (4) "Residential Real Property" shall mean a building
2 or buildings located in Cook County, Illinois and
3 containing one to 4 dwelling units or an individual
4 residential condominium unit.

5 (5) "Title Insurance Agent" shall have the meaning
6 ascribed to it under the Title Insurance Act.

7 (6) "Title Insurance Company" shall have the meaning
8 ascribed to it under the Title Insurance Act.

9 (c) A notary appointed and commissioned as a notary in
10 Illinois shall, in addition to compliance with other provisions
11 of this Act, create a Notarial Record of each notarial act
12 performed in connection with a Document of Conveyance. The
13 Notarial Record shall contain:

14 (1) The date of the notarial act;

15 (2) The type, title, or a description of the Document
16 of Conveyance being notarized, and the property index
17 number ("PIN") used to identify the Residential Real
18 Property for assessment or taxation purposes and the common
19 street address for the Residential Real Property that is
20 the subject of the Document of Conveyance;

21 (3) The signature, printed name, and residence street
22 address of each person whose signature is the subject of
23 the notarial act and a certification by the person that the
24 property is Residential Real Property as defined in this
25 Section, which states "The undersigned grantor hereby
26 certifies that the real property identified in this

1 Notarial Record is Residential Real Property as defined in
2 the Illinois Notary Public Act".

3 (4) A description of the satisfactory evidence
4 reviewed by the notary to determine the identity of the
5 person whose signature is the subject of the notarial act;

6 (5) The date of notarization, the fee charged for the
7 notarial act, the Notary's home or business phone number,
8 the Notary's residence street address, the Notary's
9 commission expiration date, the correct legal name of the
10 Notary's employer or principal, and the business street
11 address of the Notary's employer or principal; and

12 (6) The notary public shall require the person signing
13 the Document of Conveyance (including an agent acting on
14 behalf of a principal under a duly executed power of
15 attorney), whose signature is the subject of the notarial
16 act, to place his or her right thumbprint on the Notarial
17 Record. If the right thumbprint is not available, then the
18 notary shall have the party use his or her left thumb, or
19 any available finger, and shall so indicate on the Notarial
20 Record. If the party signing the document is physically
21 unable to provide a thumbprint or fingerprint, the notary
22 shall so indicate on the Notarial Record and shall also
23 provide an explanation of that physical condition. The
24 notary may obtain the thumbprint by any means that reliably
25 captures the image of the finger in a physical or
26 electronic medium.

1 (d) If a notarial act under this Section is performed by a
2 notary who is a principal, employee, or agent of a Title
3 Insurance Company, Title Insurance Agent, Financial
4 Institution, or attorney at law, the notary shall deliver the
5 original Notarial Record to the notary's employer or principal
6 within 14 days after the performance of the notarial act for
7 retention for a period of 7 years as part of the employer's or
8 principal's business records. In the event of a sale or merger
9 of any of the foregoing entities or persons, the successor or
10 assignee of the entity or person shall assume the
11 responsibility to maintain the Notarial Record for the balance
12 of the 7-year business records retention period. Liquidation or
13 other cessation of activities in the ordinary course of
14 business by any of the foregoing entities or persons shall
15 relieve the entity or person from the obligation to maintain
16 Notarial Records after delivery of Notarial Records to the
17 Recorder of Deeds of Cook County, Illinois.

18 (e) If a notarial act is performed by a notary who is not a
19 principal, employee, or agent of a Title Insurance Company,
20 Title Insurance Agent, Financial Institution, or attorney at
21 law, the notary shall deliver the original Notarial Record
22 within 14 days after the performance of the notarial act to the
23 Recorder of Deeds of Cook County, Illinois for retention for a
24 period of 7 years, accompanied by a filing fee of \$5.

25 (f) The Notarial Record required under subsection (c) of
26 this Section shall be created and maintained for each person

1 whose signature is the subject of a notarial act regarding a
2 Document of Conveyance and shall be in substantially the
3 following form:

4 **NOTARIAL RECORD - RESIDENTIAL REAL PROPERTY TRANSACTIONS**

5 Date Notarized:

6 Fee: \$

7 The undersigned grantor hereby certifies that the real property
8 identified in this Notarial Record is Residential Real Property
9 as defined in the Illinois Notary Public Act.

10 Grantor's (Signer's) Printed Name:

11 Grantor's (Signer's) Signature:

12 Grantor's (Signer's) Residential Street Address, City, State,
13 and Zip:

14 Type or Name of Document of Conveyance:

15 PIN No. of Residential Real Property:

16 Common Street Address of Residential Real Property:

17 Thumbprint or Fingerprint:

1 Description of Means of Identification:

2 Additional Comments:

3 Name of Notary Printed:

4 Notary Phone Number:

5 Commission Expiration Date:

6 Residential Street Address of Notary, City, State, and Zip:

7 Name of Notary's Employer or Principal:

8 Business Street Address of Notary's Employer or Principal,
9 City, State, and Zip:

10 (g) No copies of the original Notarial Record may be made
11 or retained by the Notary. The Notary's employer or principal
12 may retain copies of the Notarial Records as part of its
13 business records, subject to applicable privacy and
14 confidentiality standards.

15 (h) The failure of a notary to comply with the procedure
16 set forth in this Section shall not affect the validity of the
17 Residential Real Property transaction in connection to which

1 the Document of Conveyance is executed, in the absence of
2 fraud.

3 (i) The Notarial Record or other medium containing the
4 thumbprint or fingerprint required by subsection (c)(6) shall
5 be made available or disclosed only upon receipt of a subpoena
6 duly authorized by a court of competent jurisdiction. Such
7 Notarial Record or other medium shall not be subject to
8 disclosure under the Freedom of Information Act and shall not
9 be made available to any other party, other than a party in
10 succession of interest to the party maintaining the Notarial
11 Record or other medium pursuant to subsection (d) or (e).

12 (j) In the event there is a breach in the security of a
13 Notarial Record maintained pursuant to subsections (d) and (e)
14 by the Recorder of Deeds of Cook County, Illinois, the Recorder
15 shall notify the person identified as the "signer" in the
16 Notarial Record at the signer's residential street address set
17 forth in the Notarial Record. "Breach" shall mean unauthorized
18 acquisition of the fingerprint data contained in the Notarial
19 Record that compromises the security, confidentiality, or
20 integrity of the fingerprint data maintained by the Recorder.
21 The notification shall be in writing and made in the most
22 expedient time possible and without unreasonable delay,
23 consistent with any measures necessary to determine the scope
24 of the breach and restore the reasonable security,
25 confidentiality, and integrity of the Recorder's data system.

26 (k) Subsections (a) through (i) shall not apply on and

1 after July 1, 2018 ~~2013~~.

2 (1) Beginning July 1, 2013, at the time of notarization, a
3 notary public shall officially sign every notary certificate
4 and affix the rubber stamp seal clearly and legibly using black
5 ink, so that it is capable of photographic reproduction. The
6 illegibility of any of the information required by this Section
7 does not affect the validity of a transaction.

8 (Source: P.A. 97-508, eff. 8-23-11.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.