

By enacting Senate Bill 546, the Illinois General Assembly has made significant statutory changes to the Illinois Notary Public Act, establishing a four-year, anti-fraud program. The new law significantly changes the way Notaries must handle certain residential real estate transactions in Cook County by requiring them, for the first time, to create a "Notarial Record" for the notarizations and to obtain a thumbprint for each signer — a service for which they can charge \$25.

This new law applies to every Notary in Illinois who notarizes such a conveyance for residential real property in Cook County and several unusual responsibilities on Notaries. For example, unlike traditional records of notarial acts, which remain in the Notary's custody, Notaries in Illinois employed by title companies, financial institutions or law firms must turn over each Notarial Record to their employer for safekeeping, while independent Notaries are required to file Notarial Records with the Cook County Recorder of Deeds.

This new law:

- Requires a Notary to create a "Notarial Record" of each notarial act performed in connection with a Document of Conveyance affecting or purporting to affect title to Residential Real Property in Cook County
- Requires Notaries to obtain a thumbprint of the document signer(s) on this Notarial Record
- Affects all Illinois Notaries, who must create and file the Notarial Record for notarizations of particular documents of conveyance in Cook County
- Affects all title companies, financial institutions and law offices which must retain these Notarial Records for Cook County Residential Real Property
- Defines a "Document of Conveyance"
- Specifies what information must be included in each Notarial Record created in conjunction with a "Document of Conveyance"
- Prescribes that the Notary shall deliver the original Notarial Record to the Notary's employer or principal if the notarization is performed for a title insurance company or agent, a financial institution or an attorney at law employing the Notary
- Prohibits the Notary from making or retaining copies of the original Notarial Record
- Authorizes a court of competent jurisdiction to subpoena a Notarial Record or other medium containing the thumbprint
- Stipulates that a Notary's failure to comply with the procedure for making a Notarial Record under the law shall not affect the validity of the transaction, absent of fraud
- Permits Notaries to charge \$25 for any notarial act that involves creating a Notarial Record
- Applies until July 1, 2013, unless extended by the General Assembly