

§ 10B-134.23. (Effective July 1, 2024) Standards for services provided to electronic notaries; enforcement.

(a) All licensees and third-party vendors shall meet all standards established by the Secretary under this Part for the provision of services to electronic notaries in this State for remote electronic notarization services. If the Secretary has not adopted rules establishing standards for a service, a licensee or third-party vendor may not furnish that service to an electronic notary public until the Secretary has determined that the provided service meets security standards generally accepted within the industry for that service.

(b) The Secretary may adopt rules establishing, supplementing, or amending third-party vendor guidelines for standards and processes for identity proofing and credential analysis services so that third-party vendors interacting with electronic notaries satisfy the security qualifications of establishing the identity of the remotely located principal.

(c) The Secretary, in the Secretary's discretion, may do any one or more of the following if a licensee or third-party vendor violates this Part or the rules adopted by the Secretary under this Part:

- (1) Require a licensee or third-party vendor to provide an electronic notary with proof that a remote electronic notarization issue was caused in whole or in part by the licensee or third-party vendor's technology.
- (2) Issue a letter of warning, suspension, or revocation to the licensee or third-party vendor. The Secretary may require the licensee or third-party vendor to provide proof that it has come into compliance to reinstate any license or use of a third-party vendor's services.
- (3) Restrict use of a licensee or third-party vendor's technology by electronic notaries until it has come into compliance.
- (4) Assess a civil penalty of not more than one thousand dollars (\$1,000) per violation against any licensee or third-party vendor that violates a provision of this Part. In determining the amount of a penalty, the Secretary shall give due consideration to aggravating and mitigating factors presented to the Secretary by the licensee or third-party vendor and electronic notaries.
- (5) Any other appropriate remedy.

(d) A licensee or third-party vendor whose technology is restricted, suspended, discontinued, revoked, or not renewed for any reason shall work with electronic notaries using the services of that licensee or third-party vendor to ensure access and, if necessary, ease transition to a different licensee or third-party vendor and may not deny its electronic notary customers access.

(e) A licensee or third-party vendor is liable to any person who suffers damages from a remote electronic notarial act if both of the following apply:

- (1) The damage is proximately caused by a service provided by the licensee or third-party vendor that failed to meet any standard under this Part.
- (2) The person damaged was a party to, or in privity with a party to, the remote electronic notarial act proximately causing the damage.

(f) An electronic notary who exercised reasonable care in selecting and using a licensee or third-party vendor in connection with a remote electronic notarial act shall not be liable for any damages resulting from the licensee's or third-party vendor's failure to comply with the requirements of this Part. Any provision in a contract between the electronic notary and a licensee or third-party vendor that attempts to waive the immunity conferred by this subsection shall be null, void, and of no effect. (2022-54, s. 1; 2023-57, ss. 2, 9(l).)