

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House
3 Bill No. 526 entitled “An act relating to regulating notaries public” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 26 V.S.A. chapter 103 is added to read:

8 CHAPTER 103. NOTARIES PUBLIC

9 Subchapter 1. General Provisions

10 § 5301. SHORT TITLE

11 This chapter may be cited as the Uniform Law on Notarial Acts.

12 § 5302. UNIFORMITY OF APPLICATION AND CONSTRUCTION

13 In applying and construing this uniform act, consideration shall be given to
14 the need to promote uniformity of the law with respect to its subject matter
15 among states that enact it.

16 § 5303. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND
17 NATIONAL COMMERCE ACT

18 This act modifies, limits, and supersedes the Electronic Signatures in Global
19 and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify,
20 limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize
21 electronic delivery of any of the notices described in Section 103(b) of that act,

1 15 U.S.C. § 7003(b).

2 § 5304. DEFINITIONS

3 As used in this chapter:

4 (1) “Acknowledgment” means a declaration by an individual before a
5 notary public that the individual has signed a record for the purpose stated in
6 the record and, if the record is signed in a representative capacity, that the
7 individual signed the record with proper authority and signed it as the act of
8 the individual or entity identified in the record.

9 (2) “Certificate” or “notarial certificate” means the part of, or
10 attachment to, a notarized document that is completed by a notary public, bears
11 the required information set forth in section 5367 of this chapter, and states the
12 facts attested to or certified by the notary public in a particular notarization.

13 (3) “Commission term” means the two-year period commencing on
14 February 1 and continuing through January 31 of the second year following the
15 commencement of the term.

16 (4) “Electronic” means relating to technology having electrical, digital,
17 magnetic, wireless, optical, electromagnetic, or similar capabilities.

18 (5) “Electronic signature” means an electronic symbol, sound, or
19 process attached to or logically associated with a record and executed or
20 adopted by an individual with the intent to sign the record.

1 (6) “In a representative capacity” means acting as:

2 (A) an authorized officer, agent, partner, trustee, or other
3 representative for a person other than an individual;

4 (B) a public officer, personal representative, guardian, administrator,
5 executor, trustee, or other representative, in the capacity stated in a record;

6 (C) an agent or attorney-in-fact for a principal; or

7 (D) an authorized representative of another in any other capacity.

8 (7)(A) “Notarial act” means an act, whether performed with respect to a
9 tangible or an electronic record, that a notary public may perform under the
10 law of this State. The term includes taking an acknowledgment, administering
11 an oath or affirmation, taking a verification on oath or affirmation, attesting a
12 signature, and noting a protest of a negotiable instrument.

13 (B) “Notarial act” does not include a corporate officer attesting to
14 another corporate officer’s signature in the ordinary course of the corporation’s
15 business.

16 (C) Nothing in this chapter shall be construed to require the use of a
17 notary public to witness a signature unless otherwise allowed by law to be
18 witnessed by a non-notary.

19 (8) “Notarial officer” means a notary public or other individual
20 authorized to perform a notarial act.

1 (9) “Notary public” means an individual commissioned to perform a
2 notarial act by the Office.

3 (10) “Office” means the Office of Professional Regulation within the
4 Office of the Secretary of State.

5 (11) “Official stamp” means a physical image affixed to or embossed on
6 a tangible record or an electronic process, seal, or image or electronic
7 information attached to or logically associated with an electronic record.

8 (12) “Person” means an individual, corporation, business trust, statutory
9 trust, partnership, limited liability company, association, joint venture, public
10 corporation, government or governmental subdivision, agency, or
11 instrumentality, or any other legal or commercial entity.

12 (13) “Record” means information that is inscribed on a tangible medium
13 or that is stored in an electronic or other medium and is retrievable in
14 perceivable form.

15 (14) “Sign” means, with present intent to authenticate or adopt a record:

16 (A) to execute or adopt a tangible symbol; or

17 (B) to attach to or logically associate with the record an electronic
18 symbol, sound, or process.

19 (15) “Signature” means a tangible symbol or an electronic signature that
20 evidences the signing of a record.

1 (16) “Stamping device” means:

2 (A) a physical device capable of affixing to or embossing on a
3 tangible record an official stamp; or

4 (B) an electronic device or process capable of attaching to or
5 logically associating with an electronic record an official stamp.

6 (17) “State” means a state of the United States, the District of Columbia,
7 Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession
8 subject to the jurisdiction of the United States.

9 (18) “Verification on oath or affirmation” means a declaration, made by
10 an individual on oath or affirmation before a notary public, that a statement in
11 a record is true.

12 § 5305. EXEMPTIONS

13 (a) Generally.

14 (1) The persons set forth in subdivision (2) of this subsection, when
15 acting within the scope of their official duties, are exempt from all of the
16 requirements of this chapter, except for the requirements:

17 (A) to apply for a commission as set forth in section 5341(a),

18 (b)(1)–(3), (c), (d), and (e) of this chapter; and

19 (B) unless exempted under subsection (c) of this section, to pay the
20 fee set forth in section 5324 of this chapter:

1 (2)(A) Persons employed by the Judiciary, including judges, Superior
2 Court clerks, court operations managers, Probate registers, case managers,
3 docket clerks, assistant judges, county clerks, and after-hours relief from abuse
4 contract employees.

5 (B) Persons employed as law enforcement officers certified under
6 20 V.S.A. chapter 151; who are noncertified constables; or who are employed
7 by a Vermont law enforcement agency, the Department of Public Safety, of
8 Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and
9 Families, the Office of the Defender General, the Office of the Attorney
10 General, or a State’s Attorney or Sheriff.

11 (3) As used in subdivision (1) of this subsection, “acting within the
12 scope of official duties” means that a person is notarizing a document that:

13 (A) he or she believes is related to the execution of his or her duties
14 and responsibilities of employment or is the type of document that other
15 employees notarize in the course of employment;

16 (B) is useful or of assistance to any person or entity identified in
17 subdivision (2) of this subsection (a);

18 (C) is required, requested, created, used, submitted, or relied upon by
19 any person or entity identified in subdivision (2) of this subsection (a);

20 (D) is necessary in order to assist in the representation, care, or
21 protection of a person or the State;

1 (E) is necessary in order to protect the public or property;

2 (F) is necessary to represent or assist crime victims in receiving
3 restitution or other services;

4 (G) relates to a Vermont or federal court rule or statute governing any
5 criminal, postconviction, mental health, family, juvenile, civil, probate,
6 Judicial Bureau, Environmental Division, or Supreme Court matter; or

7 (H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33
8 of the Vermont Statutes Annotated.

9 (b) Attorneys.

10 (1) Attorneys licensed and in good standing in this State are exempt
11 from:

12 (A) the examination requirement set forth in subsection 5341(b) of
13 this chapter; and

14 (B) the continuing education requirement set forth in section 5343 of
15 this chapter.

16 (2) If a complaint of a violation of this chapter is filed in regard to a
17 Vermont licensed attorney, the Office shall refer the complaint to the
18 Professional Responsibility Board and shall request a report back from the
19 Board regarding the final disposition of the complaint.

1 § 5322. ADVISOR APPOINTEES

2 (a) The Secretary of State shall appoint two notaries public to serve as
3 advisors in matters relating to notarial acts. One of the advisors shall be an
4 attorney selected from a list of at least three licensed attorneys provided by the
5 Vermont Bar Association. The advisors shall be appointed for staggered five-
6 year terms and serve at the pleasure of the Secretary. One of the initial
7 appointments shall be for less than a five-year term.

8 (b) Each appointee shall have at least three years of experience as a notary
9 public during the period immediately preceding appointment and shall be
10 actively commissioned in Vermont and remain in good standing during
11 incumbency.

12 (c) The Office shall seek the advice of the advisor appointees in carrying
13 out the provisions of this chapter. The appointees shall be entitled to
14 compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010
15 for attendance at any meeting called by the Office for this purpose.

16 § 5323. RULES

17 (a) The Office, with the advice of the advisor appointees, may adopt rules
18 to implement this chapter. The rules may:

19 (1) prescribe the manner of performing notarial acts regarding tangible
20 and electronic records;

1 (2) include provisions to ensure that any change to or tampering with a
2 record bearing a certificate of a notarial act is self-evident;

3 (3) include provisions to ensure integrity in the creation, transmittal,
4 storage, or authentication of electronic records or signatures;

5 (4) prescribe the process of granting, renewing, conditioning, denying,
6 suspending, or revoking or otherwise disciplining a notary public and assuring
7 the trustworthiness of an individual holding a commission as notary
8 public; and

9 (5) include provisions to prevent fraud or mistake in the performance of
10 notarial acts.

11 (b) Rules adopted regarding the performance of notarial acts with respect to
12 electronic records may not require, or accord greater legal status or effect to,
13 the implementation or application of a specific technology or technical
14 specification. In adopting, amending, or repealing rules regarding notarial acts
15 with respect to electronic records, the Office shall consider, as far as is
16 consistent with this chapter:

17 (1) the most recent standards regarding electronic records promulgated
18 by national bodies, such as the National Association of Secretaries of State;

19 (2) standards, practices, and customs of other jurisdictions that
20 substantially enact this chapter; and

1 (3) the views of governmental officials and entities and other interested
2 persons.

3 § 5324. FEES

4 For the issuance of a commission as a notary public, the Office shall collect
5 a fee of \$15.00.

6 Subchapter 3. Commissions

7 § 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO
8 IMMUNITY OR BENEFIT

9 (a) An individual qualified under subsection (b) of this section may apply
10 to the Office for a commission as a notary public. The applicant shall comply
11 with and provide the information required by rules adopted by the Office and
12 pay the application fee set forth in section 5324 of this chapter.

13 (b) An applicant for a commission as a notary public shall:

14 (1) be at least 18 years of age;

15 (2) be a citizen or permanent legal resident of the United States;

16 (3) be a resident of or have a place of employment or practice in
17 this State;

18 (4) not be disqualified to receive a commission under section 5342 of
19 this chapter; and

20 (5) pass a basic examination approved by the Office based on the
21 statutes, rules, and ethics relevant to notarial acts.

1 (c) Before issuance of a commission as a notary public, an applicant for the
2 commission shall execute an oath of office and submit it to the Office.

3 (d) Upon compliance with this section, the Office shall issue a commission
4 as a notary public to an applicant, which shall be valid through the then current
5 commission term end date.

6 (e) A commission to act as a notary public authorizes the notary public to
7 perform notarial acts. The commission does not provide the notary public any
8 immunity or benefit conferred by law of this State on public officials or
9 employees.

10 § 5342. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,
11 SUSPEND, OR CONDITION COMMISSION OF NOTARY

12 PUBLIC

13 (a) The Office may deny, refuse to renew, revoke, suspend, or impose a
14 condition on a commission as notary public for any act or omission that
15 demonstrates the individual lacks the honesty, integrity, competence, or
16 reliability to act as a notary public, including:

17 (1) failure to comply with this chapter;

18 (2) a fraudulent, dishonest, or deceitful misstatement or omission in the
19 application for a commission as a notary public submitted to the Office;

20 (3) a conviction of the applicant or notary public of any felony or a
21 crime involving fraud, dishonesty, or deceit;

1 (4) a finding against, or admission of liability by, the applicant or notary
2 public in any legal proceeding or disciplinary action based on the applicant’s
3 or notary public’s fraud, dishonesty, or deceit;

4 (5) failure by the notary public to discharge any duty required of a
5 notary public, whether by this chapter, rules of the Office, or any federal or
6 State law;

7 (6) use of false or misleading advertising or representation by the notary
8 public representing that the notary has a duty, right, or privilege that the notary
9 does not have;

10 (7) violation by the notary public of a rule of the Office regarding a
11 notary public;

12 (8) denial, refusal to renew, revocation, suspension, or conditioning of a
13 notary public commission in another state; or

14 (9) committing any of the conduct set forth in 3 V.S.A. § 129a(a).

15 (b) If the Office denies, refuses to renew, revokes, suspends, or imposes
16 conditions on a commission as a notary public, the applicant or notary public is
17 entitled to timely notice and hearing in accordance with 3 V.S.A. chapter 25.

18 § 5343. RENEWALS; CONTINUING EDUCATION

1 (a) Biennially, the Office shall provide a renewal notice to each
2 commissioned notary public. Upon receipt of a notary public's completed
3 renewal, payment of the fee as set forth in section 5324 of this chapter, and
4 evidence of eligibility, the Office shall issue to him or her a new commission.

5 (b) A notary public applying for renewal shall complete continuing
6 education approved by the Office, which shall not be required to exceed two
7 hours, during the preceding two-year period.

8 (c) The Office, with the advice of the advisor appointees, shall establish by
9 rule guidelines and criteria for continuing education credit.

10 § 5344. DATABASE OF NOTARIES PUBLIC

11 The Office shall maintain an electronic database of notaries public:

12 (1) through which a person may verify the authority of a notary public to
13 perform notarial acts; and

14 (2) that indicates whether a notary public has notified the Office that the
15 notary public will be performing notarial acts on electronic records.

16 § 5345. PROHIBITIONS; OFFENSES

17 (a) A person shall not perform or attempt to perform a notarial act or hold
18 himself or herself out as being able to do so in this State without first having
19 been commissioned.

1 (b) The signature and title of an individual performing a notarial act in this
2 State are prima facie evidence that the signature is genuine and that the
3 individual holds the designated title.

4 § 5362. AUTHORIZED NOTARIAL ACTS

5 (a) A notary public may perform a notarial act authorized by this chapter or
6 otherwise by law of this State.

7 (b) A notary public shall not perform a notarial act with respect to a record
8 to which the notary public or the notary public’s spouse is a party, or in which
9 either of them has a direct beneficial interest. A notarial act performed in
10 violation of this subsection is voidable.

11 § 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

12 (a) Acknowledgments. A notary public who takes an acknowledgment of a
13 record shall determine, from personal knowledge or satisfactory evidence of
14 the identity of the individual, that the individual appearing before the officer
15 and making the acknowledgment has the identity claimed and that the
16 signature on the record is the signature of the individual.

17 (b) Verifications. A notary public who takes a verification of a statement
18 on oath or affirmation shall determine, from personal knowledge or
19 satisfactory evidence of the identity of the individual, that the individual
20 appearing before the officer and making the verification has the identity

1 claimed and that the signature on the statement verified is the signature of the
2 individual.

3 (c) Signatures. A notary public who attests to a signature shall determine,
4 from personal knowledge or satisfactory evidence of the identity of the
5 individual, that the individual appearing before the officer and signing the
6 record has the identity claimed.

7 (d) Protests. A notary public who makes or notes a protest of a negotiable
8 instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b),
9 protest; certificate of dishonor.

10 § 5364. PERSONAL APPEARANCE REQUIRED

11 (a) If a notarial act relates to a statement made in or a signature executed on
12 a record, the individual making the statement or executing the signature shall
13 appear personally before the notary public.

14 (b) A personal appearance does not include an acknowledgment using
15 video conferencing software that uses the transmission of video images, or any
16 other form of communication in which the notary public and the person
17 requesting the notarial act are not in the same physical location at the same
18 time.

19 § 5365. IDENTIFICATION OF INDIVIDUAL

1 (a) Personal knowledge. A notary public has personal knowledge of the
2 identity of an individual appearing before the officer if the individual is
3 personally known to the officer through dealings sufficient to provide
4 reasonable certainty that the individual has the identity claimed.

5 (b) Satisfactory evidence. A notary public has satisfactory evidence of the
6 identity of an individual appearing before the officer if the officer can identify
7 the individual:

8 (1) by means of:

9 (A) a passport, driver’s license, or government issued non-driver
10 identification card, which is current or expired not more than three years before
11 performance of the notarial act; or

12 (B) another form of government identification issued to an
13 individual, which is current or expired not more than three years before
14 performance of the notarial act, contains the signature or a photograph of the
15 individual, and is satisfactory to the officer; or

16 (2) by a verification on oath or affirmation of a credible witness
17 personally appearing before the officer and known to the officer or whom the
18 officer can identify on the basis of a passport, driver’s license, or government
19 issued non-driver identification card, which is current or expired not more than
20 three years before performance of the notarial act.

1 (c) Additional information. A notary public may require an individual to
2 provide additional information or identification credentials necessary to assure
3 the notary public of the identity of the individual.

4 § 5366. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

5 If an individual is physically unable to sign a record, the individual may
6 direct an individual other than the notary public to sign the individual’s name
7 on the record. The notary public shall insert “Signature affixed by (name of
8 other individual) at the direction of (name of individual)” or words of similar
9 import.

10 § 5367. CERTIFICATE OF NOTARIAL ACT

11 (a) A notarial act shall be evidenced by a certificate. The certificate shall:

12 (1) be executed contemporaneously with the performance of the
13 notarial act;

14 (2) be signed and dated by the notary public and be signed in the same
15 manner as on file with the Office;

16 (3) identify the jurisdiction in which the notarial act is performed;

17 (4) contain the title of office of the notary public; and

18 (5) indicate the date of expiration of the officer’s commission.

19 (b)(1) If a notarial act regarding a tangible record is performed by a notary
20 public, an official stamp shall be affixed to or embossed on the certificate **or, in**

1 the alternative, the notary shall clearly print or type the notary public's name
2 and commission number on the certificate.

3 (2) If a notarial act regarding an electronic record is performed by a
4 notary public and the certificate contains the information specified in
5 subdivisions (a)(2)–(4) of this section, an official stamp may be attached to or
6 logically associated with the certificate.

7 (c) A certificate of a notarial act is sufficient if it meets the requirements of
8 subsections (a) and (b) of this section and:

9 (1) is in a short form as set forth in section 5368 of this chapter;

10 (2) is in a form otherwise permitted by the law of this State;

11 (3) is in a form permitted by the law applicable in the jurisdiction in
12 which the notarial act was performed; or

13 (4) sets forth the actions of the notary public and the actions are
14 sufficient to meet the requirements of the notarial act as provided in sections
15 5362–5364 of this chapter or a law of this State other than this chapter.

16 (d) By executing a certificate of a notarial act, a notary public certifies that
17 the notary public has complied with the requirements and made the
18 determinations specified in sections 5363–5365 of this chapter.

19 (e) A notary public shall not affix the notary public's signature to, or
20 logically associate it with, a certificate until the notarial act has been
21 performed.

1 (f)(1) If a notarial act is performed regarding a tangible record, a certificate
2 shall be part of, or securely attached to, the record.

3 (2) If a notarial act is performed regarding an electronic record, the
4 certificate shall be affixed to, or logically associated with, the electronic
5 record.

6 (3) If the Office has established standards by rule pursuant to section
7 5323 of this chapter for attaching, affixing, or logically associating the
8 certificate, the process shall conform to those standards.

9 § 5368. SHORT-FORM CERTIFICATES

10 The following short-form certificates of notarial acts shall be sufficient for
11 the purposes indicated, if completed with the information required by
12 subsections 5367(a) and (b) of this chapter:

13 (1) For an acknowledgment in an individual capacity:

14 State of Vermont [County] of _____

15 This record was acknowledged before me on _____ by _____

16 Date _____ Name(s) of individual(s) _____

17 Signature of notary public

18 Stamp [_____]

19 Title of office _____ [My commission expires: _____]

20 (2) For an acknowledgment in a representative capacity:

21 State of Vermont [County] of _____

1 This record was acknowledged before me on _____ by _____

2 Date _____ Name(s) of individual(s) _____

3 as _____ (type of authority, such as officer or

4 trustee) of _____ (name of party on behalf of

5 whom record was executed).

6 Signature of notary public _____

7 Stamp [_____]

8 Title of office _____ [My commission expires: _____]

9 (3) For a verification on oath or affirmation:

10 State of Vermont [County] of _____

11 Signed and sworn to (or affirmed) before me on _____

12 by _____

13 Date _____

14 Name(s) of individual(s) making statement _____

15 Signature of notary public _____

16 Stamp [_____]

17 Title of office _____ [My commission expires: _____]

18 (4) For attesting a signature:

19 State of Vermont [County] of _____

20 Signed [or attested] before me on _____ by _____

1 Date Name(s) of individual(s) _____

2 Signature of notary public

3 Stamp [_____]

4 Title of office _____ [My commission expires: _____]

5 § 5369. OFFICIAL STAMP

6 The official stamp of a notary public shall:

7 (1) include the notary public’s name, jurisdiction, and other information
8 required by the Office; and

9 (2) be capable of being copied together with the record to which it is
10 affixed or attached or with which it is logically associated.

11 § 5370. STAMPING DEVICE

12 (a) A notary public is responsible for the security of the notary public’s
13 stamping device and shall not allow another individual to use the device to
14 perform a notarial act.

15 (b) If a notary public’s stamping device is lost or stolen, the notary public
16 or the notary public’s personal representative or guardian shall notify promptly
17 the Office on discovering that the device is lost or stolen.

18 § 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL

19 ACT ON ELECTRONIC RECORD; SELECTION OF

20 TECHNOLOGY

1 (a) A notary public may select one or more tamper-evident technologies to
2 perform notarial acts with respect to electronic records from the tamper-
3 evident technologies approved by the Office by rule. A person shall not
4 require a notary public to perform a notarial act with respect to an electronic
5 record with a technology that the notary public has not selected.

6 (b) Before a notary public performs the notary public’s initial notarial act
7 with respect to an electronic record, the notary public shall notify the Office
8 that the notary public will be performing notarial acts with respect to electronic
9 records and identify the technology the notary public intends to use from the
10 list of technologies approved by the Office by rule. If the Office has
11 established standards by rule for approval of technology pursuant to section
12 5323 of this chapter, the technology shall conform to the standards. If the
13 technology conforms to the standards, the Office shall approve the use of the
14 technology.

15 § 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

16 (a) A notary public may refuse to perform a notarial act if the notary public
17 is not satisfied that:

18 (1) the individual executing the record is competent or has the capacity
19 to execute the record; or

20 (2) the individual’s signature is knowingly and voluntarily made.

1 (b) A notary public may refuse to perform a notarial act unless refusal is
2 prohibited by law other than this chapter.

3 § 5373. VALIDITY OF NOTARIAL ACTS

4 (a) Except as otherwise provided in subsection 5372(b) of this chapter, the
5 failure of a notary public to perform a duty or meet a requirement specified in
6 this chapter shall not **impair the marketability of title or** invalidate a notarial act
7 or a certification evidencing the notarial act.

8 **(b) An acknowledgment that contains a notary commission expiration date**
9 **that is either inaccurate or expired shall not invalidate the acknowledgment if it**
10 **can be established that on the date the acknowledgment was taken, the notary**
11 **public's commission was active.**

12 (c) The validity of a notarial act under this chapter shall not prevent an
13 aggrieved person from seeking to invalidate the record or transaction that is the
14 subject of the notarial act or from seeking other remedies based on law of this
15 State other than this chapter or law of the United States.

16 **(d) Defects in the written evidence of acknowledgment in a document in**
17 **the public records may be cured by the notary public who performed the**
18 **original notarial act. The notary public shall, under oath and before a different**
19 **notary public, execute a writing correcting any defect. Upon recording, the**
20 **corrective document corrects any deficiency and ratifies the original written**

1 evidence of acknowledgment as of the date the acknowledgment was originally
2 taken.

3 (e) Notwithstanding any provision in the law to the contrary, a document
4 that conveys an interest in real property shall be recordable in the land records
5 and, if recorded, be sufficient for record notice to third parties notwithstanding
6 the failure of a notary public to perform any duty or meet any requirement
7 specified in this chapter. Such failure includes failure to comply in full, or in
8 part, with the requirements of sections 5367-5369 of this title.

9 (f) This section does not validate a purported notarial act performed by an
10 individual who does not have the authority to perform notarial acts.

11 § 5374. NOTARIAL ACT IN ANOTHER STATE

12 (a) A notarial act performed in another state has the same effect under the
13 law of this State as if performed by a notary public of this State, if the act
14 performed in that state is performed by:

15 (1) a notary public of that state;

16 (2) a judge, clerk, or deputy clerk of a court of that state; or

17 (3) any other individual authorized by the law of that state to perform
18 the notarial act.

19 (b) If a deed or other conveyance or a power of attorney for the conveyance
20 of land, the acknowledgment or proof of which is taken out of State, is
21 certified agreeably to the laws of the state in which the acknowledgment or

1 proof is taken, it shall be valid as though it were taken before a proper officer
2 in this State.

3 (c) An acknowledgment for a deed or other conveyance or a power of
4 attorney for the conveyance of land that is taken out of State before a proper
5 officer of this State shall be valid as if taken within this State.

6 (d) The signature and title of an individual performing a notarial act in
7 another state are prima facie evidence that the signature is genuine and that the
8 individual holds the designated title.

9 (e) The signature and title of a notarial officer described in subdivision
10 (a)(1) or (2) of this section conclusively establish the authority of the officer to
11 perform the notarial act.

12 § 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY
13 RECOGNIZED INDIAN TRIBE

14 (a) A notarial act performed under the authority and in the jurisdiction of a
15 federally recognized Indian tribe has the same effect as if performed by a
16 notary public of this State, if the act performed in the jurisdiction of the tribe is
17 performed by:

18 (1) a notary public of the tribe;

19 (2) a judge, clerk, or deputy clerk of a court of the tribe; or

20 (3) any other individual authorized by the law of the tribe to perform the
21 notarial act.

1 (b) The signature and title of an individual performing a notarial act under
2 the authority of and in the jurisdiction of a federally recognized Indian tribe are
3 prima facie evidence that the signature is genuine and that the individual holds
4 the designated title.

5 (c) The signature and title of a notarial officer described in subdivision
6 (a)(1) or (2) of this section conclusively establish the authority of the officer to
7 perform the notarial act.

8 § 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

9 (a) A notarial act performed under federal law has the same effect under the
10 law of this State as if performed by a notary public of this State, if the act
11 performed under federal law is performed by:

12 (1) a judge, clerk, or deputy clerk of a court;

13 (2) an individual in military service or performing duties under the
14 authority of military service who is authorized to perform notarial acts under
15 federal law;

16 (3) an individual designated a notarizing officer by the U.S. Department
17 of State for performing notarial acts overseas; or

18 (4) any other individual authorized by federal law to perform the
19 notarial act.

1 (b) If a notarial act is performed under authority and in the jurisdiction of a
2 foreign state or constituent unit of the foreign state or is performed under the
3 authority of a multinational or international governmental organization, the act
4 has the same effect under the law of this State as if performed by a notary
5 public of this State.

6 (c) If the title of office and indication of authority to perform notarial acts
7 in a foreign state appears in a digest of foreign law or in a list customarily used
8 as a source for that information, the authority of an officer with that title to
9 perform notarial acts is conclusively established.

10 (d) The signature and official stamp of an individual holding an office
11 described in subsection (c) of this section are prima facie evidence that the
12 signature is genuine and the individual holds the designated title.

13 (e) An apostille in the form prescribed by the Hague Convention of
14 October 5, 1961, and issued by a foreign state party to the Convention,
15 conclusively establishes that the signature of the notarial officer is genuine and
16 that the officer holds the indicated office.

17 (f) A consular authentication issued by an individual designated by the
18 U.S. Department of State as a notarizing officer for performing notarial acts
19 overseas and attached to the record with respect to which the notarial act is
20 performed conclusively establishes that the signature of the notarial officer is
21 genuine and that the officer holds the indicated office.

1 Sec. 2. 27 V.S.A. § 341 is amended to read:

2 § 341. REQUIREMENTS GENERALLY; RECORDING

3 (a) Deeds and other conveyances of lands, or of an estate or interest therein,
4 shall be signed by the party granting the same and acknowledged by the
5 grantor before a ~~town clerk~~, notary public, ~~master~~, or ~~county clerk~~ and
6 recorded at length in the clerk's office of the town in which such lands lie.
7 Such acknowledgment before a notary public shall be valid without an official
8 ~~seal~~ stamp being affixed to his or her signature.

9 (b) A deed or other conveyance of land ~~which~~ that includes a reference to a
10 survey prepared or revised after July 1, 1988 may be recorded only if it is
11 accompanied by the survey to which it refers, or cites the volume and page in
12 the land records showing where the survey has previously been recorded.

13 (c) A lease of real property that has a term of more than one year from the
14 making of the lease need not be recorded at length if a notice or memorandum
15 of lease, which is executed and acknowledged as provided in subsection (a) of
16 this section, is recorded in the land records of the town in which the leased
17 property is situated. The notice of lease shall contain at least the following
18 information:

19 (1) the names of the parties to the lease as set forth in the lease;

20 (2) a statement of the rights of a party to extend or renew the lease;

21 (3) any addresses set forth in the lease as those of the parties;

1 (4) the date of the execution of the lease;

2 (5) the term of the lease, the date of commencement, and the date of
3 termination;

4 (6) a description of the real property as set forth in the lease;

5 (7) a statement of the rights of a party to purchase the real property or
6 exercise a right of first refusal with respect thereto;

7 (8) a statement of any restrictions on assignment of the lease; and

8 (9) the location of an original lease.

9 Sec. 3. 27 V.S.A. § 342 is amended to read:

10 § 342. ACKNOWLEDGMENT AND RECORDING REQUIRED

11 A deed of bargain and sale, a mortgage or other conveyance of land in fee
12 simple or for term of life, or a lease for more than one year from the making
13 thereof shall not be effectual to hold such lands against any person but the
14 grantor and his or her heirs, unless the deed or other conveyance is
15 acknowledged and recorded as provided in this chapter.

16 Sec. 4. 27 V.S.A. § 463 is amended to read:

17 § 463. BY SEPARATE INSTRUMENT

18 (a) Mortgages may be discharged by an acknowledgment of satisfaction,
19 executed by the mortgagee or his or her attorney, executor, administrator, or
20 assigns, which shall be substantially in the following form:

1 I hereby certify that the following described mortgage is paid in full and
2 satisfied, viz: _____ mortgagor to _____ mortgagee,
3 dated _____ 20____, and recorded in book _____, page _____,
4 of the land records of the town of _____.

5 (b) When such satisfaction is acknowledged before a ~~town clerk~~, notary
6 public, ~~master, or county clerk~~, and recorded, it shall discharge such mortgage
7 and bar actions brought thereon.

8 Sec. 5. REPEALS

9 The following are repealed:

10 (1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);

11 (2) 27 V.S.A. § 379 (conveyance of real estate; execution and
12 acknowledgment; acknowledgment out of state);

13 (3) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge
14 or fee);

15 (4) 32 V.S.A. § 1436 (fee for certification of appointment as notary
16 public); and

17 (5) 32 V.S.A. § 1759 (notaries public fees).

18 Sec. 6. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

19 (a)(1) This act shall apply to a notarial act performed on or after the
20 effective date of this act.

1 (2) A notary public, in performing notarial acts on and after the effective
2 date of this act, shall comply with the provisions of this act.

3 (b)(1) A commission as a notary public in effect on the effective date of
4 this act shall continue until its date of expiration.

5 (2) A notary public who applies to renew a commission as a notary
6 public on or after the effective date of this act shall comply with the provisions
7 of this act.

8 Sec. 7. SAVINGS CLAUSE

9 This act shall not affect the validity or effect of a notarial act performed
10 prior to the effective date of this act.

11 **Sec. 8. POTENTIAL ENACTMENT OF UNIFORM UNSWORN**

12 **DECLARATIONS ACT; REPORT BY AFFECTED ENTITIES**

13 (a) The General Assembly is considering enacting a law similar to the
14 April 2015 draft of the Uniform Unsworn Declarations Act (UUDA) prepared
15 by the National Conference of Commissioners on Uniform State Laws.

16 (b) In order to understand the UUDA's potential effect on State operations,
17 on or before June 30, 2019, the Secretary of Administration on behalf of the
18 Administration and the State's boards, councils, and commissions; the
19 Attorney General; the Secretary of State; the Executive Director of the
20 Department of State's Attorneys and Sheriffs; the Defender General; the
21 Auditor of Accounts; the State Treasurer; and the Court Administrator shall

1 each submit to the General Assembly a summary regarding the effect of the
2 enactment of the UUDA on each entity and the users of its operations. The
3 summary shall include the following in regard to the entity's operations:

4 (1) an identification of forms requiring a notarial act and any proceeding
5 or action requiring the use of such forms that are created, used, or required by
6 the entity;

7 (2) an explanation of whether continued use of a notarial act on a
8 particular form is recommended and if so, why;

9 (3) any recommendations for amendments to the UUDA;

10 (4) a draft of any suggested legislation, rules, or forms, including
11 amendments to existing rules and forms, as may be necessary to address issues
12 arising from the enactment of the UUDA;

13 (5) an identification of the resources, timeline, and expenses related to
14 any necessary rulemaking or form change based on the enactment of the
15 UUDA.

16 Sec. 9. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

17 This act shall take effect on July 1, 2019, except that:

18 (1) this section shall take effect on passage;

19 (2) the Office of Professional Regulation may adopt rules in accordance
20 with the provisions of Sec. 1 prior to the effective date of that section;

1 (3) beginning on December 1, 2018, the Office of Professional
2 Regulation shall perform the duties of the assistant judges and county clerks in
3 regard to receiving applications and commissioning notaries public as set forth
4 in 24 V.S.A. chapter 5, subchapter 9 (county officers; notaries public) for the
5 two-year notaries public commission terms that begin on February 1, 2019 in
6 accordance with Sec. 1; and

7 (4) in Sec. 1, the examination requirement for new notaries public
8 applicants set forth in 26 V.S.A. § 5341(b)(5) and the continuing education
9 requirement for notaries public renewal applicants set forth in
10 26 V.S.A. § 5343(b) shall take effect on February 1, 2021 and shall apply to
11 those applicants for the notaries public commission terms that begin on
12 that date.

13
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15

16 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE