

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) “Electronic” means relating to technology having electrical, digital,
14 magnetic, wireless, optical, electromagnetic, or similar capabilities, including
15 blockchain technology, which is a mathematically secured, chronological, and
16 decentralized consensus ledger or database, whether maintained via Internet
17 interaction, peer-to-peer network, or otherwise.

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

1 (5) “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 (6) “Notarial act” means an act, whether performed with respect to a
9 tangible or electronic record, that a notary public may perform under the law of
10 this State. The term includes taking an acknowledgment, administering an
11 oath or affirmation, taking a verification on oath or affirmation, attesting a
12 signature, certifying or attesting a copy, and noting a protest of a negotiable
13 instrument.

14 (7) “Notarial officer” means a notary public or other individual
15 authorized to perform a notarial act.

16 (8) “Notary public” means an individual commissioned to perform a
17 notarial act by the Office.

18 (9) “Office” means the Office of Professional Regulation within the
19 Office of the Secretary of State.

20 (10) “Official stamp” means a physical image affixed to or embossed on
21 a tangible record or an electronic process, seal, or image or electronic

1 information attached to or logically associated with an electronic record,
2 including an encryption system.

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

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

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

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

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

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

16 (15) “Stamping device” means:

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

19 (B) an electronic device or process capable of attaching to or
20 logically associating with an electronic record an official stamp, including a
21 cryptographic process using blockchain technology.

1 (16) “State” means a state of the United States, the District of Columbia,
2 Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession
3 subject to the jurisdiction of the United States.

4 (17) “Verification on oath or affirmation” means a declaration, made by
5 an individual on oath or affirmation before a notary public, that a statement in
6 a record is true.

7 § 5305. EXEMPTIONS

8 (a) Generally.

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

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

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

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

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

20 (B) Persons employed as law enforcement officers certified under
21 20 V.S.A. chapter 151; who are noncertified constables; or who are employed

1 by a Vermont law enforcement agency; the Department of Public Safety, of
2 Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and
3 Families; the Office of the Defender General; the Office of the Attorney
4 General; or a State’s Attorney or Sheriff.

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

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

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

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

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

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

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

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

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

3 (b) Attorneys.

4 (1) Attorneys licensed and in good standing in this State are exempt
5 from:

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

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

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

14 (c) Fees. The following persons are exempt from the fee set forth in
15 section 5324 of this chapter:

16 (1) a judge, clerk, or other court staff, as designated by the Court
17 Administrator;

18 (2) State's Attorneys and their deputies and Assistant Attorneys
19 General, public defenders, and their staff;

20 (3) justices of the peace and town clerks and their assistants; and

1 actively commissioned in Vermont and remain in good standing during
2 incumbency.

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

7 § 5323. RULES

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

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

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

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

16 (4) prescribe the process of granting, renewing, conditioning, denying,
17 suspending, or revoking or otherwise disciplining a notary public and assuring
18 the trustworthiness of an individual holding a commission as notary
19 public; and

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

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

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

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

11 (3) the views of governmental officials and entities and other interested
12 persons.

13 § 5324. FEES

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

16 Subchapter 3. Commissions

17 § 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO

18 IMMUNITY OR BENEFIT

19 (a) An individual qualified under subsection (b) of this section may apply
20 to the Office for a commission as a notary public. The applicant shall comply

1 with and provide the information required by rules adopted by the Office and
2 pay the application fee set forth in section 5324 of this chapter.

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

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

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

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

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

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

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

14 (d) Upon compliance with this section, the Office shall issue a commission
15 as a notary public to an applicant for a term of two years.

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

1 § 5342. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,
2 SUSPEND, OR CONDITION COMMISSION OF NOTARY
3 PUBLIC

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

8 (1) failure to comply with this chapter;

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

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

13 (4) a finding against, or admission of liability by, the applicant or notary
14 public in any legal proceeding or disciplinary action based on the applicant's
15 or notary public's fraud, dishonesty, or deceit;

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

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

1 (7) violation by the notary public of a rule of the Office regarding a
2 notary public;

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

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

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

9 § 5343. RENEWALS; CONTINUING EDUCATION

10 (a) Commissions shall be renewed every two years upon payment of the fee
11 set forth in section 5324 of this chapter, provided the person applying for
12 renewal completes continuing education approved by the Office, which shall
13 not be required to exceed more than two hours, during the preceding two-year
14 period.

15 (b) The Office, with the advice of the advisor appointees, shall establish by
16 rule guidelines and criteria for continuing education credit.

17 (c) Biennially, the Office shall provide a renewal notice to each licensee.
18 Upon receipt of a licensee's completed renewal, fee, and evidence of
19 eligibility, the Office shall issue to him or her a new commission.

1 § 5344. DATABASE OF NOTARIES PUBLIC

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

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

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

7 § 5345. PROHIBITIONS; OFFENSES

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

11 (b) A person shall not use in connection with the person's name any letters,
12 words, or insignia indicating or implying that the person is a notary public
13 unless commissioned in accordance with this chapter.

14 (c) A person shall not perform or attempt to perform a notarial act while his
15 or her commission has been revoked or suspended.

16 (d) A person who violates a provision of this section shall be subject to a
17 fine of not more than \$5,000.00 or imprisonment for not more than one year, or
18 both. Prosecution may occur upon the complaint of the Attorney General or a
19 State's Attorney and shall not act as a bar to civil or administrative proceedings
20 involving the same conduct.

1 § 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

2 (a) Acknowledgments. A notary public who takes an acknowledgment of a
3 record shall determine, from personal knowledge or satisfactory evidence of
4 the identity of the individual, that the individual appearing before the officer
5 and making the acknowledgment has the identity claimed and that the
6 signature on the record is the signature of the individual.

7 (b) Verifications. A notary public who takes a verification of a statement
8 on oath or affirmation shall determine, from personal knowledge or
9 satisfactory evidence of the identity of the individual, that the individual
10 appearing before the officer and making the verification has the identity
11 claimed and that the signature on the statement verified is the signature of the
12 individual.

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

17 (d) Copies. A notary public who certifies or attests a copy of a record or an
18 item that was copied shall determine that the copy is a full, true, and accurate
19 transcription or reproduction of the record or item.

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

4 § 5364. PERSONAL APPEARANCE REQUIRED

5 If a notarial act relates to a statement made in or a signature executed on a
6 record, the individual making the statement or executing the signature shall
7 appear personally before the notary public.

8 § 5365. IDENTIFICATION OF INDIVIDUAL

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

13 (b) Satisfactory evidence. A notary public has satisfactory evidence of the
14 identity of an individual appearing before the officer if the officer can identify
15 the individual:

16 (1) by means of:

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

20 (B) another form of government identification issued to an
21 individual, which is current or expired not more than three years before

1 performance of the notarial act, contains the signature or a photograph of the
2 individual, and is satisfactory to the officer; or

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

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

11 § 5366. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

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

17 § 5367. CERTIFICATE OF NOTARIAL ACT

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

19 (1) be executed contemporaneously with the performance of the
20 notarial act;

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

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

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

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

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

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

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

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

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

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

18 (4) sets forth the actions of the notary public and the actions are
19 sufficient to meet the requirements of the notarial act as provided in sections
20 5362–5364 of this chapter or a law of this State other than this chapter.

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

4 (e) A notary public shall not affix the officer’s signature to, or logically
5 associate it with, a certificate until the notarial act has been performed.

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

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

11 (3) If the Office has established standards by rule pursuant to section
12 5323 of this chapter for attaching, affixing, or logically associating the
13 certificate, the process shall conform to those standards.

14 § 5368. SHORT-FORM CERTIFICATES

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

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

19 State of Vermont [County] of _____

20 This record was acknowledged before me on _____ by _____

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

1 Signature of notary public

2 Stamp [_____]

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

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

5 State of Vermont [County] of _____

6 This record was acknowledged before me on _____ by _____

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

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

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

10 whom record was executed).

11 Signature of notary public

12 Stamp [_____]

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

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

15 State of Vermont [County] of _____

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

17 by _____

18 Date _____

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

20 Signature of notary public _____

21 Stamp [_____]

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

2 (4) For attesting a signature:

3 State of Vermont [County] of _____

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

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

6 Signature of notary public

7 Stamp [_____]

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

9 (5) For certifying a copy of a record:

10 State of Vermont [County] of _____

11 I certify that the preceding or attached document is a true, exact, complete, and

12 unaltered copy made by me from the original document, presented to me by

13 the document's custodian, _____, and that, to the

14 best of my knowledge, the photocopied document is neither a public record nor

15 a publicly recordable document, certified copies of which are available from an

16 official source other than a notary public.

17 Dated _____

18 Signature of notary public

19 Stamp [_____]

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

1 § 5369. OFFICIAL STAMP

2 The official stamp of a notary public shall:

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

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

7 § 5370. STAMPING DEVICE

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

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

14 § 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL

15 ACT ON ELECTRONIC RECORD; SELECTION OF

16 TECHNOLOGY

17 (a) A notary public may select one or more tamper-evident technologies to
18 perform notarial acts with respect to electronic records. A person shall not
19 require a notary public to perform a notarial act with respect to an electronic
20 record with a technology that the notary public has not selected.

1 (b) Before a notary public performs the notary public’s initial notarial act
2 with respect to an electronic record, the notary public shall notify the Office
3 that the notary public will be performing notarial acts with respect to electronic
4 records and identify the technology the notary public intends to use. If the
5 Office has established standards by rule for approval of technology pursuant to
6 section 5323 of this chapter, the technology shall conform to the standards. If
7 the technology conforms to the standards, the Office shall approve the use of
8 the technology.

9 § 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

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

12 (1) the individual executing the record is competent or has the capacity
13 to execute the record; or

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

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

17 § 5373. VALIDITY OF NOTARIAL ACTS

18 (a) Except as otherwise provided in subsection 5372(b) of this chapter, the
19 failure of a notary public to perform a duty or meet a requirement specified in
20 this chapter shall not invalidate a notarial act performed by the notary public.

1 (b) The validity of a notarial act under this chapter shall not prevent an
2 aggrieved person from seeking to invalidate the record or transaction that is the
3 subject of the notarial act or from seeking other remedies based on law of this
4 State other than this chapter or law of the United States.

5 (c) This section does not validate a purported notarial act performed by an
6 individual who does not have the authority to perform notarial acts.

7 (d)(1) In the event a certificate affixed to a document of record in the
8 public records is determined to be defective as a result of a failure to comply
9 with the requirements of this subchapter, the notary public who performed the
10 original notarial act may certify in writing that the original act was properly
11 done, notwithstanding the deficiency, by executing a corrected certificate and
12 incorporating that certificate in a statement made under oath, and
13 acknowledged before a different notary public.

14 (2) The recording of the corrected certificate shall be deemed to correct
15 any deficiency in the prior certificate and shall ratify the prior certificate as of
16 the date of the original certificate.

17 § 5374. NOTARIAL ACT IN ANOTHER STATE

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

21 (1) a notary public of that state;

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

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

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

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

10 § 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY

11 RECOGNIZED INDIAN TRIBE

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

16 (1) a notary public of the tribe;

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

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

20 (b) The signature and title of an individual performing a notarial act under
21 the authority of and in the jurisdiction of a federally recognized Indian tribe are

1 prima facie evidence that the signature is genuine and that the individual holds
2 the designated title.

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

6 § 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

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

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

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

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

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

18 (b) The signature and title of an individual acting under federal authority
19 and performing a notarial act are prima facie evidence that the signature is
20 genuine and that the individual holds the designated title.

1 (c) The signature and title of an officer described in subdivision (a)(1), (2),
2 or (3) of this section shall conclusively establish the authority of the officer to
3 perform the notarial act.

4 § 5377. EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT

5 PERFORMED IN THIS STATE

6 (a) The authenticity of the official notarial seal and signature of a notary
7 public may be evidenced by either:

8 (1) A certificate of authority from the Secretary of State authenticated as
9 necessary.

10 (2) An apostille from the Secretary of State in the form prescribed by the
11 Hague convention of October 5, 1961 abolishing the requirement of
12 legalization of foreign public documents.

13 (b) An apostille as specified by the Hague convention shall be attached to
14 any document that requires authentication and that is sent to a nation that has
15 signed and ratified this convention.

16 § 5378. FOREIGN NOTARIAL ACT

17 (a) In this section, “foreign state” means a government other than the
18 United States, a state, or a federally recognized Indian tribe.

19 (b) If a notarial act is performed under authority and in the jurisdiction of a
20 foreign state or constituent unit of the foreign state or is performed under the
21 authority of a multinational or international governmental organization, the act

1 has the same effect under the law of this State as if performed by a notary
2 public of this State.

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

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

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

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

1 Sec. 2. REPEALS

2 The following are repealed:

3 (1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);

4 (2) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge
5 or fee);

6 (3) 32 V.S.A. § 1436 (fee for certification of appointment as notary
7 public); and

8 (4) 32 V.S.A. § 1759 (notaries public fees).

9 Sec. 3. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

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

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

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

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

19 Sec. 4. SAVINGS CLAUSE

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

1 **Sec. 5. POTENTIAL ENACTMENT OF UNIFORM UNSWORN**

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

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

6 (b) In order to understand the UUDA's potential effect on State operations,
7 on or before December 15, 2018, the Secretary of Administration on behalf of
8 the Administration and the State's boards, councils, and commissions; the
9 Attorney General; the Secretary of State; the Executive Director of the
10 Department of State's Attorneys and Sheriffs; the Defender General; the
11 Auditor of Accounts; the State Treasurer; and the Court Administrator shall
12 each submit to the General Assembly a report that summarizes the effect of the
13 enactment of the UUDA on each entity and the users of its operations. The
14 report shall at a minimum include the following in regard to the entity's
15 operations:

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

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

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

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

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

7 Sec. 6. EFFECTIVE DATES

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

9 (1) beginning on February 1, 2019, the Office of Professional
10 Regulation shall perform the duties of the assistant judges and county clerks in
11 regard to receiving applications and commissioning notaries public as set forth
12 in 24 V.S.A. chapter 5, subchapter 9 (county officers; notaries public); and

13 (2) in Sec. 1, 26 V.S.A. § 5343 (renewals; continuing education) shall
14 take effect on February 1, 2019, and a notary public’s commission shall be
15 renewed on that date.

16
17

18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE