

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, including  
18 blockchain technology, which is a mathematically secured, chronological, and  
19 decentralized consensus ledger or database, whether maintained via Internet  
20 interaction, peer-to-peer network, or otherwise.

**Comment [BAW1]:** VBA and SoS disagree re: subdiv. (2).

**Comment [BAW2]:** VBA and SoS agree.

See Sec. 8(3) which specifies that the two-year notaries public commission terms begin on February 1, 2019 in accordance with Sec. 1 of this act

**Comment [BAW3]:** SGO discuss blockchain.

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

**Comment [BAW4]:** SGO discuss blockchain.

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

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

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

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

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

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

**Comment [BAW5]:** Deleted “certifying or attesting a copy.” VBA and SoS agree.

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

**Comment [BAW6]:** VBA and SoS agree.

20           (8) “Notarial officer” means a notary public or other individual  
21 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           including an encryption system.

Comment [BAW7]: SGO discuss blockchain.

Comment [BAW8]: SGO discuss blockchain.

Comment [BAW9]: SGO discuss blockchain.

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

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

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

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

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

20           (15) “Signature” means a tangible symbol or an electronic signature that  
21           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, including a  
6 cryptographic process using blockchain technology.

Comment [BAW10]: SGO discuss blockchain.

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

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

13           § 5305. EXEMPTIONS

14           (a) Generally.

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

18           (A) to apply for a commission as set forth in section 5341(a),  
19 (b)(1)–(3), (c), (d), and (e) of this chapter; and

20           (B) unless exempted under subsection (c) of this section, to pay the  
21 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.

Comment [BAW12]: Sentence added. VBA and SoS agree.

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.

**Comment [BAW13]:** See Sec. 8(4) re: 2/1/21 eff. date of this subdiv. (5).

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.

**Comment [BAW14]:** VBA and SoS agree.  
Phrase replaced "for a term of two years"

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.

1     § 5343. RENEWALS; CONTINUING EDUCATION

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

**Comment [BAW15]:** VBA and SoS agree. Was former subsec. (c); non-substantive revisions.

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

**Comment [BAW16]:** Former subsec. (a), revised for clarity.

**See Sec. 8(4) re: 2/1/21 eff. date of this subsec. (b).**

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

11    § 5344. DATABASE OF NOTARIES PUBLIC

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

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

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

17    § 5345. PROHIBITIONS; OFFENSES

18    (a) A person shall not perform or attempt to perform a notarial act or hold  
19    himself or herself out as being able to do so in this State without first having  
20    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

**Comment [BAW18]:** VBA and SoS agree.  
Replaced "officer" and "officer's" as leftover from  
House-passed bill's use of "notarial officer."

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 in an  
4 acknowledgment or verification shall determine, from personal knowledge or  
5 satisfactory evidence of the identity of the individual, that the individual  
6 appearing before the officer and signing the record has the identity claimed.

Comment [BAW19]: Added. VBA and SoS agree.

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.

Comment [BAW20]: VBA and SoS agree to remove former subsec. (d) re: copies, which read:

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

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.

Comment [BAW21]: Added. VBA and SoS agree.

1     § 5365. IDENTIFICATION OF INDIVIDUAL

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

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

9           (1) by means of:

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

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

17           (2) by a verification on oath or affirmation of a credible witness  
18 personally appearing before the officer and known to the officer or whom the  
19 officer can identify on the basis of a passport, driver's license, or government  
20 issued non-driver identification card, which is current or expired not more than  
21 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.

Comment [BAW22]: VBA and SoS disagree.

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

**Comment [BAW23]:** VBA and SoS disagree.

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

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

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

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

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

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

**Comment [BAW24]:** VBA and SoS disagree.

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

**Comment [BAW25]:** VBA and SoS agree.  
Replaced “officer’s” as leftover from House-passed bill’s use of “notarial officer.”

**Comment [BAW26]:** VBA and SoS disagree.

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

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

Comment [BAW27]: VBA and SoS disagree.

4           (3) If the Office has established standards by rule pursuant to section  
5           5323 of this chapter for attaching, affixing, or logically associating the  
6           certificate, the process shall conform to those standards.

Comment [BAW28]: VBA and SoS disagree.

7           § 5368. SHORT-FORM CERTIFICATES

Comment [BAW29]: VBA and SoS disagree re:  
ALL OF SECTION § 5368.

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

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

12           State of Vermont [County] of \_\_\_\_\_  
13           This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_  
14           Date           Name(s) of individual(s) \_\_\_\_\_  
15           Signature of notary public \_\_\_\_\_  
16           Stamp [ \_\_\_\_\_ ]  
17           Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

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

19           State of Vermont [County] of \_\_\_\_\_  
20           This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

1 Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

2 as \_\_\_\_\_ (type of authority, such as officer or

3 trustee) of \_\_\_\_\_ (name of party on behalf of

4 whom record was executed).

5 Signature of notary public

6 Stamp [ \_\_\_\_\_ ]

7 Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

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

9 State of Vermont [County] of \_\_\_\_\_

10 Signed and sworn to (or affirmed) before me on \_\_\_\_\_

11 by \_\_\_\_\_

12 Date \_\_\_\_\_

13 Name(s) of individual(s) making statement \_\_\_\_\_

14 Signature of notary public \_\_\_\_\_

15 Stamp [ \_\_\_\_\_ ]

16 Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

17 (4) For attesting a signature:

18 State of Vermont [County] of \_\_\_\_\_

19 Signed [or attested] before me on \_\_\_\_\_ by \_\_\_\_\_

20 Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

21 Signature of notary public

1 Stamp [ \_\_\_\_\_ ]

2 Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

3 **§ 5369. OFFICIAL STAMP**

4 The official stamp of a notary public shall:

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

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

9 **§ 5370. STAMPING DEVICE**

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

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

16 **§ 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL**

17 **ACT ON ELECTRONIC RECORD; SELECTION OF**

18 **TECHNOLOGY**

19 (a) A notary public may select one or more tamper-evident technologies to  
20 perform notarial acts with respect to electronic records **from the tamper-**  
21 **evident technologies approved by the Office by rule.** A person shall not

**Comment [BAW30]:** VBA and SoS agree to remove former subdiv. (5), re: certifying copies. Subdiv. (5) read:

(5) For certifying a copy of a record:  
State of Vermont [County] \_\_\_\_\_  
of \_\_\_\_\_  
I certify that the preceding or attached document is a true, exact, complete, and unaltered copy made by me from the original document, presented to me by the document’s custodian, \_\_\_\_\_, and that, to the best of my knowledge, the photocopied document is neither a public record nor a publicly recordable document, certified copies of which are available from an official source other than a notary public.  
Dated \_\_\_\_\_  
Signature of notary public \_\_\_\_\_  
Stamp [ \_\_\_\_\_ ]  
Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

**Comment [BAW31]:** VBA and SoS disagree re: ALL OF SECTION § 5369.

**Comment [BAW32]:** VBA and SoS disagree re: ALL OF SECTION § 5370.

**Comment [BAW33]:** Phrase added. VBA and SoS agree.

1 require a notary public to perform a notarial act with respect to an electronic  
2 record with a technology that the notary public has not selected.

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

Comment [BAW34]: Phrase added. VBA and SoS agree.

12 § 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

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

15 (1) the individual executing the record is competent or has the capacity  
16 to execute the record; or

17 (2) the individual's signature is knowingly and voluntarily made.

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

1 § 5373. VALIDITY OF NOTARIAL ACTS

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

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

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

14 (d) This section does not validate a purported notarial act performed by an  
15 individual who does not have the authority to perform notarial acts.

16 (e) 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

**Comment [BAW35]:** Phrase added. VBA and SoS agree.

**Comment [BAW36]:** Phrase replaced "performed by the notary public". VBA and SoS agree.

**Comment [BAW37]:** New subsec. (b) added. VBA and SoS agree.

**Comment [BAW38]:** VBA and SoS agree. New subsec. (e), which replaced former subsec. (d), which read:

(d)(1) In the event a certificate affixed to a document of record in the public records is determined to be defective as a result of a failure to comply with the requirements of this subchapter, the notary public who performed the original notarial act may certify in writing that the original act was properly done, notwithstanding the deficiency, by executing a corrected certificate and incorporating that certificate in a statement made under oath, and acknowledged before a different notary public.  
(2) The recording of the corrected certificate shall be deemed to correct any deficiency in the prior certificate and shall ratify the prior certificate as of the date of the original certificate.

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

3 § 5374. NOTARIAL ACT IN ANOTHER STATE

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

7 (1) a notary public of that state;

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

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

11 (b) If a deed or other conveyance or a power of attorney for the conveyance  
12 of land, the acknowledgment or proof of which is taken out of State, is  
13 certified agreeably to the laws of the state in which the acknowledgment or  
14 proof is taken, it shall be valid as though it were taken before a proper officer  
15 in this State.

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

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

**Comment [BAW39]:** VBA and SoS disagree.  
VBA proposes to delete this subdiv. (2).

**Comment [BAW40]:** New subsec. (b) added.  
VBA and SoS agree.

**Comment [BAW41]:** New subsec. (c) added.  
VBA and SoS agree.

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

4       § 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY  
5       RECOGNIZED INDIAN TRIBE

6       (a) A notarial act performed under the authority and in the jurisdiction of a  
7       federally recognized Indian tribe has the same effect as if performed by a  
8       notary public of this State, if the act performed in the jurisdiction of the tribe is  
9       performed by:

10       (1) a notary public of the tribe;

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

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

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

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

1     § 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

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

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

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

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

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

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

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

1     § 5377. EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT  
2             PERFORMED IN THIS STATE

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

5             (1) A certificate of authority from the Secretary of State authenticated as  
6     necessary.

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

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

13     § 5378. FOREIGN NOTARIAL ACT

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

16            (b) If a notarial act is performed under authority and in the jurisdiction of a  
17     foreign state or constituent unit of the foreign state or is performed under the  
18     authority of a multinational or international governmental organization, the act  
19     has the same effect under the law of this State as if performed by a notary  
20     public of this State.

**Comment [BAW42]:** Should this instead be  
“stamp”? [If so, highlight disagreement?]

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

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

Comment [BAW43]: VBA and SoS disagree.

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

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

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

Comment [BAW44]: VBA and SoS agree.

18 **§ 341. REQUIREMENTS GENERALLY; RECORDING**

19        **(a) Deeds and other conveyances of lands, or of an estate or interest therein,**  
20 **shall be signed by the party granting the same and acknowledged by the**  
21 **grantor before a town clerk, notary public, master, or county clerk and**

1 recorded at length in the clerk's office of the town in which such lands lie.

2 Such acknowledgment before a notary public shall be valid without an official  
3 seal being affixed to his or her signature.

Comment [BAW45]: Should this instead be "stamp"?

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

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

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

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

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

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

18 (5) the term of the lease, the date of commencement, and the date of  
19 termination;

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

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

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

4 (9) the location of an original lease.

5 Sec. 3. 27 V.S.A. § 463 is amended to read:

Comment [BAW46]: VBA and SoS agree.

6 § 463. BY SEPARATE INSTRUMENT

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

10 I hereby certify that the following described mortgage is paid in full and  
11 satisfied, viz: \_\_\_\_\_ mortgagor to \_\_\_\_\_ mortgagee,  
12 dated \_\_\_\_\_ 20\_\_\_\_, and recorded in book \_\_\_\_\_, page \_\_\_\_\_,  
13 of the land records of the town of \_\_\_\_\_.

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

1       Sec. 4. REPEALS

2           The following are repealed:

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

4           (2) 27 V.S.A. § 379 (conveyance of real estate; execution and  
5           acknowledgment; acknowledgment out of state);

6           (3) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge  
7           or fee);

8           (4) 32 V.S.A. § 1436 (fee for certification of appointment as notary  
9           public); and

10          (5) 32 V.S.A. § 1759 (notaries public fees).

11       Sec. 5. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

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

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

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

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

Comment [BAW47]: Added. VBA and SoS agree.

1       Sec. 6. SAVINGS CLAUSE

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

4       Sec. 7. POTENTIAL ENACTMENT OF UNIFORM UNSWORN  
5           DECLARATIONS ACT; REPORT BY AFFECTED ENTITIES

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

9           (b) In order to understand the UUDA’s potential effect on State operations,  
10 on or before December 15, 2018, the Secretary of Administration on behalf of  
11 the Administration and the State’s boards, councils, and commissions; the  
12 Attorney General; the Secretary of State; the Executive Director of the  
13 Department of State’s Attorneys and Sheriffs; the Defender General; the  
14 Auditor of Accounts; the State Treasurer; and the Court Administrator shall  
15 each submit to the General Assembly a summary regarding the effect of the  
16 enactment of the UUDA on each entity and the users of its operations. The

17 summary shall include the following in regard to the entity’s operations:

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

**Comment [BAW48]:** Per SGO request. Phrase replaced “a report that summarizes”

**Comment [BAW49]:** Per SGO request. Phrase replaced “report shall at a minimum include”

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

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

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

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

10 Sec. 8. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

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

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

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

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

**Comment [BAW50]:** Per SGO request to allow OPR advanced time for rulemaking that it may want in place by the eff. date of the new T.26 notary chapter.

**Comment [BAW51]:** VBA and SoS agree. Replaced "February 1, 2019"

