

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