

NOTARY PUBLIC HANDBOOK

**A
HANDBOOK
FOR
VIRGINIA
NOTARIES PUBLIC**



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NOTARY PUBLIC HANDBOOK

INTRODUCTION

This handbook is intended as a general guide and is designed to assist non-attorney notaries with the general requirements, duties, powers, limitations, liabilities, and legal significance of their actions as a notary public. Legal counsel should be consulted whenever specific problems or questions arise concerning any aspect of the office of notary public.

THE NOTARY'S FUNCTION

A notary public is a public official whose powers and duties are defined by statute. A notary acts as an official, unbiased witness to the identity and signature of the person who comes before the notary for a specific purpose. The person may be taking an oath, giving oral or written testimony, or signing or acknowledging his or her signature on a legal document. In each case, the notary attests that certain formalities have been observed.

The key function is to be **certain** that the person appearing before the notary is who that person claims to be.

Virginia law defines certain “notarial acts” which a notary is empowered to perform. **Notaries must constantly be aware that every notarial act affects the legal rights of others. Carelessness or negligence by the notary may injure these rights.**

A notary who fails to perform notarial acts lawfully and in good faith may be civilly liable for damages caused by their official misconduct. The employer of a notary may also be liable for the notary's misconduct under certain conditions described later in this handbook.

TYPES OF NOTARIES IN VIRGINIA

The Code of Virginia allows for two different types of notary commissions to be issued in the Commonwealth; traditional notary public commissions and electronic notary public commissions. The difference between the two types of notary public commissions are the tools that are used to perform the notarial act and, in some cases, the criteria for establishing the identity of the person seeking a notarization. To apply for an electronic notary public commission, the applicant must first be commissioned as a TRADITIONAL Virginia notary public.

TRADITIONAL NOTARY PUBLIC

A traditional notarization is an official act (acknowledgement, certified true copy, etc.) performed by a traditional, pen and paper notary public using their seal and physical signature on documents.

QUALIFICATIONS FOR APPOINTMENT – TRADITIONAL NOTARY PUBLIC

(§ 47.1-3, § 47.1-4)

Under the laws of Virginia, the Governor may appoint an unlimited number of notaries public.

A notary must be: (1) at least eighteen years old, (2) must be a legal resident of the United States, and (3) must be able to read and write the English language. (4) No person who has ever been convicted of a felony under the laws of the United States or this Commonwealth, or the laws of any other state, shall qualify to be appointed and commissioned as a notary public unless such person has been pardoned for such felony or has had his rights restored.

Non-residents of Virginia may be appointed as notaries if they are regularly employed in the state and perform notary services in connection with their employment. A non-resident notary who ceases to be regularly employed in Virginia must surrender his or her commission.

OBTAINING A COMMISSION – TRADITIONAL NOTARY PUBLIC

(§ 47.1-5, § 47.1-8, § 47.1-9)

Applications for appointment as a notary public are available from most Circuit Court clerk's offices, on the Office of the Secretary of the Commonwealth's website at <http://www.commonwealth.virginia.gov/> and from the Office of the Secretary of the Commonwealth.

To become a commissioned notary, a completed application, along with a fee of \$45, must be sent to the Office of the Secretary of the Commonwealth. The name on the application and commission must exactly match the notary's state issued identification.

Each notary commission is sent to the city or county Circuit Court in which the applicant has elected to take the oath of office. A notice is sent to the preferred mailing address indicated by the applicant on his/her application. When an electronic address is indicated on the application as the preferred mailing address, e-mail notices **only** will be sent. It is the applicant's responsibility to go to the Circuit Court to claim his or her commission and take the oath of office. At that time, the applicant will be required to pay a fee of \$10 to the Clerk.

If a notary commission is not claimed within sixty days from its issuance, it becomes invalid. Failure to claim the commission within sixty days is not excused for ANY REASON, including non-receipt of the notice. Thereafter, if the applicant wishes to be a notary, a new application and a new fee must be submitted.

An applicant who has not received notice within four weeks of mailing their application to the Office of the Secretary of the Commonwealth, should call the Clerk of Court to verify if the commission has been received. If it has not, the applicant should contact the Office of the Secretary of the Commonwealth.

**NOTARY PUBLIC HANDBOOK
TERMS OF OFFICE –
TRADITIONAL NOTARY PUBLIC**

(§ 47.1-21, § 47.1-5.1)

A notary's commission is for a term of four years, expiring on the last day of the month in which the notary was born. The commission may be renewed every fourth year by filing a new application with the Secretary of the Commonwealth.

The Secretary of the Commonwealth is working on the technology to accept electronic applications for renewal of commission only. We hope to have this technology up and running by the end of 2014.

After their term has expired, notaries must not act as such unless a new commission has been obtained. Acting under an expired commission may constitute a criminal offense.

**SEALS/STAMPS –
TRADITIONAL NOTARIZATION**

Virginia law requires a notary to affix a seal or stamp on every document he or she notarizes. The law specifies that the seal/stamp be sharp, legible, permanent and photographically reproducible. Care should be taken not to obscure the signatures or other parts of the document when applying the seal/stamp to the document.

A Virginia notary's seal/stamp must contain the name of the notary exactly as it appears on the notary's commission, the words "Notary Public" and "Commonwealth of Virginia." Any information included on the notary's seal/stamp must be accurate. The notary cannot strikethrough or white-out an area to make a change.

Stamps/seals must be obtained from an outside vendor. The Office of the Secretary of the Commonwealth does not sell or make notary stamps/seals. It is the responsibility of the notary to dispose of or destroy the notary seal once the notary ceases to be a notary.

**ALLOWABLE FEES –
TRADITIONAL NOTARIZATION**

(§ 47.1-19, § 47.1-20)

By law, a notary is not required to charge a fee. However, he or she may charge up to \$5.00 for each paper-based notarial act performed.

The only other payment a notary may request is actual travel expenses if the notary is required to travel away from home or office to perform the notarial act. In this case, the notary and client must agree on the payment to be made.

An employer may require a notary to perform notarial acts in connection with the notary's employment without charging a fee for such notarial acts. If a fee is charged, however, an employer may not require that the fee be surrendered to the employer.

JOURNAL –

TRADITIONAL NOTARIZATION

A traditional notary is not required to keep a notary journal. However, the Office of the Secretary of the Commonwealth recommends that each notary maintain a journal that provides a record of all notarial acts performed so as to provide evidence for resolving future disputes over authenticity of signatures and documents. The journal may also provide proof that the notary has lawfully performed his or her notarial duties.

JURISDICTION – TRADITIONAL NOTARIZATION

(§ 47.1-13, § 47.1-13.1)

All Virginia notaries are notaries at-large and have authority to perform all traditional notarial acts anywhere within the Commonwealth of Virginia.

Virginia notaries have limited powers in performing notarial acts outside the Commonwealth of Virginia. A traditional notary public may perform any notarial act outside the Commonwealth for any writing to be used in the Commonwealth of Virginia or by the United States government.

ELECTRONIC NOTARY PUBLIC

An electronic notarization is an official act (acknowledgement, certified true copy, etc.) performed by an electronic notary public using their electronic seal and electronic signature on electronic documents.

The information below and additional information can also be found in the Electronic Notary Assurance Standards under the notary tab of the Secretary of the Commonwealth's website at www.commonwealth.virginia.gov

QUALIFICATIONS AND OBTAINING A COMMISSION – ELECTRONIC NOTARY PUBLIC

(§ 47.1-4, § 47.1-5§ 47.1-8, § 47.1-9)

To become an electronic notary, the applicant must first hold a valid commission as a notary public in the Commonwealth of Virginia. Prior to submitting an electronic notary application, the applicant must purchase an electronic seal from an electronic notary seal provider. The electronic seal is a required item on the electronic notary application. Once the electronic seal is purchased, the applicant must submit a completed electronic notary application along with a \$45 application fee. A notice is sent to each applicant, advising that his or her electronic notary commission has been approved.

TERMS OF OFFICE –

ELECTRONIC NOTARY PUBLIC

The electronic notary commission will expire on the same date the notary's regular commission expires. The electronic notary commission will need to be renewed at the same time the notary commission is renewed.

SEALS AND SIGNATURES – ELECTRONIC NOTARIZATION

The electronic notary seal must contain the name of the notary exactly as it appears on the notary's commission, the words "Electronic Notary Public" and "Commonwealth of Virginia", the commission expiration date, and the notary's registration number. The physical appearance of the seal replicates the appearance of an inked seal on paper and shall appear on any visual or printed representation of the electronic notary certificate. The electronic notary seal is attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination. The seal must be retained under the electronic notary's sole control.

Every electronic notarial certificate must include:

- (1) County/city within Virginia where the electronic notary public was physically located at the time the notarization was performed
- (2) Whether the notarization was done in person or by remote notarization

ALLOWABLE FEES – ELECTRONIC NOTARIZATION

(§ 47.1-19, § 47.1-20)

By law, an electronic notary is not required to charge a fee. However, he or she may charge up to \$25 for each electronic notarial act performed.

The only other payment an electronic notary may request is actual travel expenses if the electronic notary is required to travel away from home or office to perform the electronic notarial act. In this case, the electronic notary and client must agree on the payment to be made.

An employer may require a notary to perform notarial acts in connection with the notary's employment without charging a fee for such notarial acts. If a fee is charged, however, an employer may not require that the fee be surrendered to the employer.

JOURNAL – ELECTRONIC NOTARIZATION

(§ 47.1-14)

An electronic notary is required to keep, maintain, and protect a journal of all electronic notarization acts. The electronic notary shall take reasonable steps to ensure the integrity, security, and authenticity of electronic notarizations. The electronic notary must maintain a backup for his electronic notarization journal. The electronic record of an electronic notarial act shall be maintained for a period of at least five years from the date of the transaction.

The electronic notarization journal must contain the following information:

- (1) The date and time of day of the notarial act;
- (2) The type of notarial act;
- (3) The type, title, or a description of the document or proceeding;
- (4) The printed name and address of each person seeking an electronic notarization;
- (5) The type of identification used to establish identity of each person seeking electronic notarization;
- (6) The fee, if any, charged for the electronic notarial act.

JURISDICTION- ELECTRONIC NOTARIZATION

(§ 47.1-13, § 47.1-13.1)

Only traditional notaries public who have also been registered as electronic notaries public may perform electronic notarial acts within the Commonwealth of Virginia.

All electronic notarial acts performed by Virginia electronic notaries are deemed to have been performed within the Commonwealth of Virginia and are governed by Virginia law. This reflects the reality that electronic documents may not be physically stored in Virginia. In fact, the network-based digital economy has no geographic boundaries and is, therefore, borderless. Thus, regardless of the physical location of the electronic document, Virginia law governs the electronic notarial act.

Virginia electronic notaries also have limited extraterritorial powers. An electronic notary public may perform any authorized notarial act outside of the Commonwealth for any writing intended to be used in the Commonwealth of Virginia or by the United States government. Please note the remote notarial act is not extra-territorial because it is deemed to have been performed within the Commonwealth of Virginia at the place where the electronic notary is located.

REMOTE OR ONLINE ELECTRONIC NOTARIZATION

Remote electronic notarization incorporates strict federal standards for determining the identity of the signer and requires the notary to keep a record of the video conference for each notarial act, which is not required in paper notarizations. Accordingly, protections against fraud with this method are much stronger than that afforded by the current paper process. It is important to

remember that the Commonwealth of Virginia already uses video conferencing in courts of law, the standards for which this law expressly cross-references.

SATISFACTORY EVIDENCE OF THE SIGNER'S IDENTITY - ELECTRONIC NOTARIZATION

(§ 47.1-2)

Remote notarization requires a very high threshold for identity assurance. Not only **MUST** there be a video and audio feed, the notary public will be **REQUIRED** to assure the identity of the signer by one of the following three options:

- 1) Personal knowledge. This is already allowed under Virginia law. Simply put, if the notary knows the signer, that will satisfy this requirement.
- 2) Reliance on prior in-person identity proofing by a third party such as an employer, a law firm, or a bank. Otherwise known as antecedent proofing, this security standard relies upon a prior trust relationship having been created between the signer and a third party. This standard is gaining wide application in electronic commerce.
- 3) The signer has a digital certificate that is authenticated either by (i) biometrics or (ii) a Personal Identity Verification (PIV) or PIV-I card issued in conformance with strict government standards from the National Institute of Standards and Technology. The use of PIV and PIV-I cards is becoming more prevalent in the public and private sectors. This is as trustworthy and reliable a security standard as can be found currently. The federal government uses this standard in issuing identifications to federal employees and government contractors as well for trusting the identity of emergency first responders.

PERFORMANCE REQUIREMENTS – ELECTRONIC NOTARIZATION

(§ 47.1-2, § 47.1-14 C, and § 19.2-3.1, B 1, 2, and 3)

The two-way live teleconferencing capability must meet the following performance criteria for establishing personal appearance:

- 1) The persons communicating must simultaneously see and speak to one another;
- 2) The signal transmission must be live, real time; and,
- 3) The signal transmission must be secure from interception through lawful means by anyone other than the persons communicating.

The notary is required by law to keep a record of each video conference notarial act. This record must be kept for five years.

POWERS, LIMITATIONS, AND RESPONSIBILITIES (TRADITIONAL AND ELECTRONIC NOTARIES PUBLIC)

THE NOTARY'S POWERS

(§ 32.1-272, § 47.1-12, § 55-118.1 – § 55-118.6)

A notary has the power to perform various official acts, known as “notarial acts”. *The Code of Virginia* specifies five basic notarial acts:

1. Taking acknowledgments
2. Administering oaths and affirmations
3. Certifying affidavits or depositions
4. Certifying “true copies” of documents
5. Verification of fact

Each of these acts has a specific purpose and should be performed with care. The Uniform Recognition of Acknowledgments Act (Section 55-118.1 through 55-121 of the *Code of Virginia*) outlines the format a notary should use for various acknowledgments.

Virginia notaries **may** perform their duties outside of the Commonwealth if the document is for use in the Commonwealth.

In necessary cases, a child’s signature **may** be notarized. The required proof of the identity of a child is the same as an adult.

Virginia notaries **may** notarize powers of attorney and wills.

Virginia notaries are **not** authorized to certify true copies of birth, death, or marriage certificates. Only the Division of Vital Records/Statistics may perform such a certification.

Virginia notaries are **not** authorized to certify true copies of court issued documents.

Virginia notaries are **not** authorized to perform marriage ceremonies.

A Virginia notary is **not** authorized to notarize his/her own signature.

The Commonwealth of Virginia is the first state in the country to authorize the verification of fact as a notarial power. This involves a notary directly accessing public or vital records to confirm or validate a signer’s identity credentials or to confirm facts about an individual’s identity or authorization. A notary may also access public records to confirm facts about such matters as corporate status, date of birth, or date of marriage.

THE NOTARY'S GREATEST RESPONSIBILITY

(§ 47.1-2, § 47.1-11, § 47.1-14, § 47.1-15)

It is the notary's responsibility to be familiar with and understand everything contained in "The Handbook for Virginia Notaries Public" throughout their term as a notary. If changes are made to notary laws, the updated handbook will be available each July.

"The Handbook for Virginia Notaries Public" can be found under the notary tab on the Secretary of the Commonwealth's website at www.commonwealth.virginia.gov

Before performing a notarial act, a notary must be **CERTAIN** of the identity of each person whose signature will be notarized. A notary is required to exercise a **HIGH DEGREE OF CARE** in determining the identity of any person whose identity is the subject of a notarial act. Unless such person is known by the notary, identity shall be ascertained by examination of one or more of the following nine **unexpired** documents: 1) a United States Passport, 2) a United States Passport Card, 3) a certificate of United States citizenship, 4) a certificate of naturalization, 5) a foreign passport, 6) an alien registration card with photograph, 7) a state issued driver's license, 8) state-issued identification card, or 9) a United States military card.

A notary must never accept any signature as genuine on the word of a third party. An acknowledgment must be made by the person whose signature is the subject of the acknowledgment. Oaths must be administered by a notary for any sworn document and the person giving the oath must appear, in person, before the notary who administers the oath. A notary who fails to establish the identity of a person runs the risk of being sued for negligence or malfeasance in office.

Except with respect to a remote electronic notarization, in taking an acknowledgment or administering an oath, the person whose act is the subject of the notarial act must personally appear before the notary.

A Virginia notary may **REFUSE** to notarize a document for any reason.

If a notary has any questions or concerns regarding any act of a Notary Public, he or she should contact the Notary Section of the Office of the Secretary of the Commonwealth **BEFORE** performing that act. However, all notaries public should be aware the Secretary of the Commonwealth's Office **cannot** give legal advice.

REQUIRED INFORMATION WHEN NOTARIZING A DOCUMENT –

(§ 47.1-2, § 47.1-15, § 47.1-16)

Every notarial act must contain seven items of TRADITIONAL information:

1. Notarial statement
2. The date of the notarial act
3. The location of the notarial act in the city or county where notarization occurs
4. The expiration date of the notary's commission
5. Notary's signature
6. Notary's registration number
7. Photographically reproducible notary seal/stamp

Each of these items is required by law and is extremely important. The notary must be accurate in providing this information.

1. A notarial statement must identify the specific notarial act that has been performed (acknowledgment, true copy of an original document, etc.).
2. The date and location of the notarial act must be clearly indicated. Usually, the language of a notarial act contains a place for this information. When it does not, the best place to put the date is immediately above the place where the notary will sign. Both the state and the city or county in which the act was performed must appear. In most cases, this information appears above the language of the notarial act.
3. The date of expiration is required and generally appears after the signature of the notary in this form: **“My commission expires, _____, 20__.”**
4. A notarial act requires the original signature of the notary. Signature stamps and other facsimiles or photocopies do not satisfy this requirement.
5. The notary's registration number must also appear as part of the notarial act. If a form or certificate lacks space for this information, the notary must provide it somewhere on the form or certificate. Registration numbers became an official part of the notarial act on July 1, 2007. Documents notarized before this date were not required to have the notary's registration number.
6. Virginia law requires a (traditional and electronic) notary to use a stamp or seal on every document they notarize. The law specifies the stamp or seal used must be sharp, legible, permanent and photographically reproducible. Care should be taken to not obscure the signatures or other parts of the document. In the case of an electronic notary, the attached seal must be capable of independent verification. Any subsequent changes or modifications to the electronic document must be evident. A notary stamp or seal became an official part of the notarial act on July 1, 2008. Documents notarized before this date were not required to have a stamp or seal.

Every effort should be made for notarial statement to be on the same page as the signature being notarized, however, if they are on different pages, the notarial statement must include the name of the person whose signature is being notarized.

Sample Acknowledgements

(§ 55-118.1, § 55-118.2, § 55-118.3, § 55-118.4, § 55-118.5, § 55-118.6)

*Suggested forms:

A) Certificate of Acknowledgment:

City/County of _____
Commonwealth of Virginia
The foregoing instrument was acknowledged before me
this ___ day of ___, 20 ____ by

(Name of person seeking acknowledgment)

Notary Public’s signature
Notary registration number: _____
My commission expires: _____

Notary Seal

B) Certified Copy of an Original:

City/County of _____
Commonwealth of Virginia
I certify this to be a complete, full, true and exact reproduction
of the original document.
Certified this _____ day of _____, 20 ____

Notary Public’s signature
Notary registration number: _____
My commission expires: _____

Notary Seal

C) Jurat (requires that an oath be administered by the notary):

City/County of _____
Commonwealth of Virginia
The foregoing instrument was subscribed and sworn
before me this ___ day of ___, 20 ____ by

(name of person seeking jurat)

Notary Public’s signature
Notary registration number: _____
My commission expires: _____

Notary Seal

For any notarial act that includes the words “*sworn*” or “*affirm*,” an oath must be administered by a notary. In administering the oath, the notary **MUST** require that the person taking the oath swear or affirm that the sworn statement is true and correct to the best of that person’s knowledge.

CHANGE OF NAME

(§ 47.1-17)

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A notary whose name is legally changed during his or her term must indicate in writing the name in which the commission was issued. For example, if Mary Jane Smith, a notary public commissioned on July 1, 2010, changed her legal name to Mary Smith Jones, she must indicate on all notarial acts the original name in which her commission was issued. The following language should appear on all documents notarized:

“I was commissioned a notary public as Mary Jane Smith.”

By using this additional language, Mrs. Jones will avoid confusion over her ability to serve as a notary. The stamp/seal must match the name as you are commissioned. When she reapplies for a commission, she may do so in her new name.

CHANGE OF CONTACT INFORMATION

(§ 47.1-18)

If a notary has any changes to their contact information (i.e. address, phone number, business address, business phone number, etc.) during their commission, they must notify the Office of the Secretary of the Commonwealth of the change of address. The Change of Contact Information form can be found under the Notary Commission section of the Secretary of the Commonwealth’s website at www.commonwealth.virginia.gov .

REPORTING LOST OR STOLEN NOTARY INFORMATION

(§ 47.1-14)

A (traditional or electronic) notary must immediately report, in writing, any lost or stolen electronic notary items to the Secretary of the Commonwealth’s office. If the items are believed to have been stolen, the electronic notary must also inform the appropriate law-enforcement agency.

RESIGNATION

(§ 47.1-22)

A notary who wishes to resign may do so by sending a letter of resignation and his or her commission to the Secretary of the Commonwealth.

A Virginia notary who moves outside of the state must surrender his or her commission unless the notary continues to be regularly employed in Virginia. If the notary continues to be regularly employed in Virginia he or she may continue to serve by notifying the Secretary of the Commonwealth of such employment.

CONFLICTS OF INTEREST

(§ 47.1-30)

Notaries may not perform any notarial act, which presents a conflict between their personal interest and their official duty.

Under the Virginia Notary Act, a notary may not perform any notarial act with respect to any document if:

The notary is a party to the document

The notary's spouse is a party to the document

The notary is a signatory or is named in the document

The notary or his or her spouse has a "direct beneficial interest" in the document

Notaries should not notarize any document when there is any possibility that the contents of the document will benefit them or their spouse.

Notaries may notarize wills in which the notary is fiduciary.

Notaries must NEVER notarize wills in which they are named beneficiaries. If you are uncertain about the difference, please consult an attorney before notarizing.

Finally, no notary who is a paid employee of a political campaign, including a referendum or petition effort, shall perform a notarial act in regard to petitions for that campaign.

Regardless of whether any beneficial or other interests exist, a notary may never take his or her own acknowledgment, oath, affidavit, or deposition.

BONDS AND INSURANCE

Virginia notaries are not required to post a bond in order to obtain their commission. All notaries may wish to consider liability insurance for their own protection. Notaries who perform notarial duties in connection with their employment should consult their employer to determine whether they are covered, or could be covered, by the employer's policy.

VIOLETIONS OF NOTARY LAW

(§ 47.1-15, § 47.1-15.1, § 47.1-23, § 47.1-24, § 47.1-25, § 47.1-26, § 47.1-27, § 47.1-28, § 47.1-29, § 47.1-29.1)

Official Misconduct

Any violation of the Virginia Notary Act by a notary constitutes “official misconduct.”

Removal from Office

The Secretary of the Commonwealth may remove any notary from office for official misconduct, or for other specific reasons, including:

- 1. Falsifying an application for appointment**
- 2. Being convicted of a felony anywhere in the United States**
- 3. Misleading the public as to the powers of a notary**
- 4. Being convicted of the unauthorized practice of law**

The most frequent charge of official misconduct involves a notary’s failure to require the personal appearance of an individual before the notary when acknowledging that person’s signature.

If a notary fails to properly notarize a document, the Secretary of the Commonwealth may send a letter warning that notary public of the notary’s misconduct.

In cases where a notary is charged with official misconduct or other grounds for removal, the Secretary of the Commonwealth is empowered to conduct hearings in cases of serious misconduct.

After a hearing done by the Secretary, a notary may be suspended from notarial duties. If a notary is found guilty of official misconduct or is otherwise subject to removal, the Secretary may discipline the notary by reprimand, suspension from practice, or removal from office. A court may review the findings of the hearing by the Secretary of the Commonwealth if an appeal is made within 30 days of the Secretary’s action.

A notary removed from office is disqualified from being reappointed in Virginia for 20 years.

All legal complaints about notaries public should be directed to the Commonwealth Attorney’s Office in the jurisdiction where the complaint occurred.

Prohibitions

No notary public shall offer legal advice on immigration nor shall he or she represent any person in immigration proceedings or other legal matters unless such notary public is authorized or licensed to practice law in the Commonwealth or is accredited to practice immigration law.

A notary public shall not assume, use, or advertise under any of the titles: “notario”, “notario publico”, “licenciado” or any other term in any language other than English that indicates the notary is authorized to provide legal advice or practice law. The notary public will be subject to a civil penalty not to exceed \$500 for the first violation and a penalty not to exceed \$1000 for the second or subsequent violation.

Civil Liability

A notary may be liable for any notarial act performed unlawfully and not in good faith that causes injury or damages to another person.

Notaries must keep in mind that they are acting as official witnesses to the identity and actions of the person who appears before them. The public is entitled to assume that the notary has acted in good faith and according to law.

Criminal Liability

Any notary, who knowingly and willfully commits official misconduct under the Virginia Notary Act, may be convicted of a misdemeanor.

Notaries who intentionally use their powers to perpetrate a fraud or to embezzle or steal from another may be found guilty of a felony.

A notary who knowingly makes a false oath or certificate may be guilty of perjury.

Liability of the Notary's Employer

The employer of a notary may be civilly or criminally liable for certain acts.

The employer may be liable for damages caused by the notary's official misconduct if:

The misconduct was performed as part of the notary's employment

The employer knew about the misconduct, or should have known about it.

Any employer who encourages, threatens, or otherwise intentionally causes an employee to violate the notary laws may be found guilty of a misdemeanor.

Impersonation of a Notary

If a person who is not a notary attempts to notarize a document or otherwise acts as a notary without authority, the impersonator may be found guilty of felony charges.

It should be noted that notaries whose commissions have expired and persons who have not yet received a commission do not have authority to act as a notary. A valid commission is necessary to perform any notarial act.

Any legal questions about notary public **duties, responsibilities, or prohibitions** should be directed to an attorney for clarification. The Secretary of the Commonwealth's Office cannot answer legal questions.

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Section 17.1-270 Officer to state fees, etc., on affidavit, deposition or report

A notary or other officer returning affidavits or depositions of witnesses and a commissioner returning a report shall state at the foot thereof the fees therefor, to whom charged and, if paid, by whom.

Section 47.1-1 Short title

This title may be cited as the "Virginia Notary Act."

Section 47.1-2 Definitions

As used in this title, unless the context demands a different meaning:

"Acknowledgment" means a notarial act in which an individual at a single time and place (i) appears in person before the notary and presents a document; (ii) is personally known to the notary or identified by the notary through satisfactory evidence of identity; and (iii) indicates to the notary that the signature on the document was voluntarily affixed by the individual for the purposes stated within the document and, if applicable, that the individual had due authority to sign in a particular representative capacity.

"Affirmation" means a notarial act, or part thereof, that is legally equivalent to an oath and in which an individual at a single time and place (i) appears in person before the notary and presents a document; (ii) is personally known to the notary or identified by the notary through satisfactory evidence of identity; and (iii) makes a vow of truthfulness or fidelity on penalty of perjury.

"Commissioned notary public" means that the applicant has completed and submitted the registration forms along with the appropriate fee to the Secretary of the Commonwealth and the Secretary of the Commonwealth has determined that the applicant meets the qualifications to be a notary public and issues a notary commission and forwards same to the clerk of the circuit court, pursuant to this chapter.

"Copy certification" means a notarial act in which a notary (i) is presented with a document that is not a public record; (ii) copies or supervises the copying of the document using a photographic or electronic copying process; (iii) compares the document to the copy; and (iv) determines that the copy is accurate and complete.

"Credible witness" means an honest, reliable, and impartial person who personally knows an individual appearing before a notary and takes an oath or affirmation from the notary to confirm that individual's identity.

"Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including a record as defined in the Uniform Electronic Transactions Act (§ [59.1-479](#) et seq.).

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic document" means information that is created, generated, sent, communicated, received, or stored by electronic means.

"Electronic notarial act" and "electronic notarization" mean an official act by a notary under § [47.1-12](#) or as otherwise authorized by law that involves electronic documents.

"Electronic notarial certificate" means the portion of a notarized electronic document that is completed by the notary public, bears the notary public's signature, title, commission expiration date, and other required information concerning the date and place of the electronic notarization, and states the facts attested to or certified by the notary public in a particular notarization.

"Electronic notary public" or "electronic notary" means a notary public who has been commissioned by the Secretary of the Commonwealth with the capability of performing electronic notarial acts under § [47.1-7](#).

"Electronic notary seal" or "electronic seal" means information within a notarized electronic document that

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confirms the notary's name, jurisdiction, and commission expiration date and generally corresponds to data in notary seals used on paper documents.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.

"Notarial act" or "notarization" means any official act performed by a notary under § [47.1-12](#) or [47.1-13](#) or as otherwise authorized by law.

"Notarial certificate" or "certificate" means the part of, or attachment to, a notarized document that is completed by the notary public, bears the notary public's signature, title, commission expiration date, notary registration number, and other required information concerning the date and place of the notarization and states the facts attested to or certified by the notary public in a particular notarization.

"Notary public" or "notary" means any person commissioned to perform official acts under the title, and includes an electronic notary except where expressly provided otherwise.

"Oath" shall include "affirmation."

"Official misconduct" means any violation of this title by a notary, whether committed knowingly, willfully, recklessly or negligently.

"Personal knowledge of identity" or "personally knows" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

"Principal" means (i) a person whose signature is notarized or (ii) a person, other than a credible witness, taking an oath or affirmation from the notary.

"Record of notarial acts" means a device for creating and preserving a chronological record of notarizations performed by a notary.

"Satisfactory evidence of identity" means identification of an individual based on (i) examination of one or more of the following unexpired documents bearing a photographic image of the individual's face and signature: a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card or (ii) the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary and who personally knows the individual or of two credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in clause (i). In the case of an individual who resides in an assisted living facility, as defined in § 63.2-100, or a nursing home, licensed by the State Department of Health pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 or exempt from licensure pursuant to § 32.1-124, an expired United States Passport Book, expired United States Passport Card, expired foreign passport, or expired state issued driver's license or state issued identification card may also be used for identification of such individual, provided that the expiration of such document occurred within five years of the date of use for identification purposes pursuant to this title. In the case of an electronic notarization, "satisfactory evidence of identity" may be based on video and audio conference technology, in accordance with the standards for electronic video and audio communications set out in subdivisions B 1, B 2, and B 3 of § 19.2-3.1, that permits the notary to communicate with and identify the principal at the time of the notarial act, provided that such identification is confirmed by (a) personal knowledge, (b) an antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge Certification Authority, or (c) a valid digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification card that is designed, issued, and managed in accordance with the specifications published by the National Institute of Standards and Technology in Federal Information Processing Standards Publication 201-1, "Personal Identity Verification (PIV) of Federal Employees and Contractors," and supplements thereto or revisions thereof, including the specifications published by the Federal Chief Information Officers Council in "Personal Identity Verification Interoperability for Non-Federal Issuers."

"Seal" means a device for affixing on a paper document an image containing the notary's name and other

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information related to the notary's commission.

"Secretary" means the Secretary of the Commonwealth.

"State" includes any state, territory, or possession of the United States.

"Verification of fact" means a notarial act in which a notary reviews public or vital records to (i) ascertain or confirm facts regarding a person's identity, identifying attributes, or authorization to access a building, database, document, network, or physical site or (ii) validate an identity credential on which satisfactory evidence of identity may be based.

Section 47.1-3 Power of appointment

The Governor may appoint in and for the Commonwealth as many notaries as to him shall seem proper. Any person who acts as a notary in the Commonwealth shall register with and be commissioned by the Secretary of the Commonwealth and otherwise be in compliance with the provisions of this title.

Section 47.1-4 Qualifications for appointment

To be qualified to be commissioned as a notary in the Commonwealth, each such person (i) shall be at least 18 years of age, (ii) shall be a legal resident of the United States, (iii) shall be able to read and write the English language, (iv) shall never have been convicted of a felony under the laws of the United States, the Commonwealth, or any other state, unless such person has been pardoned for such felony, has had his conviction vacated by the granting of a writ of actual innocence, or has had his rights restored, and (v) shall otherwise be in compliance with the provisions of this title. A nonresident of Virginia may register and be commissioned as a notary only if he is regularly employed in the Commonwealth and meets all of the requirements of this section. A member of the armed services of the United States shall be eligible to register and be commissioned as a notary notwithstanding the provisions of § [2.2-2800](#).

Section 47.1-5 Application

No person shall be commissioned as a notary public or electronic notary public pursuant to this title until he submits an application fee as set forth in § [2.2-409](#) and a complete and correct application to the Secretary of the Commonwealth, in a form prescribed by the Secretary, which shall include the oath of the applicant, signed and sworn before some officer authorized by law to administer oaths, that the answers to all questions on the application are true and complete to the best of his knowledge and that he is qualified to be appointed and commissioned as a notary public. The Secretary may accept applications by electronic means.

Any application fee shall be waived for an application filed by a clerk or deputy clerk of a circuit or district court.

Section 47.1-5.1 Application for recommission

Persons already commissioned as notaries public or electronic notaries public pursuant to this title and who are submitting application for recommission as a notary or electronic notary may submit applications to the Secretary in person, by first-class mail, or online, provided online applications contain electronic signatures, authorized by the Uniform Electronic Transactions Act (§ [59.1-479](#) et seq.), as confirmation that the application has been signed and sworn pursuant to § [47.1-5](#).

Section 47.1-6

Reserved.

Section 47.1-6.1 Standards of electronic notarization

The Secretary of the Commonwealth shall develop standards for electronic notarization and the Virginia Information Technologies Agency shall provide assistance to the Secretary of the Commonwealth relating to

the equipment, security, and technological aspects of the electronic notarization standards. The process for developing and maintaining such standards shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

Section 47.1-7 Additional requirements for performing electronic notarial acts.

A. An applicant shall submit a registration form established by the Secretary for registering and being commissioned as an electronic notary public, which shall include:

1. The applicant's full legal and official notary names;
2. A general description of the technology or technologies the registrant will use to create an electronic signature in performing official acts;
3. Certification of compliance to the Secretary of the Commonwealth with electronic notary standards developed in accordance with § 47.1-6.1; and
4. The electronic mail address of the registrant.

B. The registration form shall (i) be signed by the applicant using the electronic signature described in the form; (ii) include any decrypting instructions, codes, keys, or software that allow the registration to be read; and (iii) be transmitted electronically to the Secretary.

C. Nothing herein shall be construed to prevent an electronic notary from using updated technology or technologies during the term of the commission; however, the electronic notary shall notify the Secretary electronically within 90 days of installation or use of such updated technology or technologies and provide a brief description thereof.

Section 47.1-8 Commission to be issued, etc.

Upon receipt of a completed application and the correct fee, the Secretary, if satisfied the applicant is qualified to be registered and commissioned as a notary public or electronic notary public, shall prepare a notary commission for the applicant which shall include a registration number and forward the commission for a notary public or electronic notary public to the clerk of the circuit court in which the applicant shall elect to qualify. The Secretary shall thereupon notify the applicant that the commission has been granted and where and how it may be secured. An electronic notary public may act as a notary public in all respects upon being commissioned as an electronic notary public.

Section 47.1-9 Notary Oath; duties of clerks

Before receiving his commission, each person appointed a notary or electronic notary shall appear before the clerk of the circuit court to which his commission has been sent, present sufficient satisfaction of evidence of identity as defined in § 47.1-2, and make oath as follows:

"I,, solemnly swear (or affirm) under penalty of perjury, that I have carefully read the notary laws of this Commonwealth, and am familiar with their provisions; that I will uphold the Constitution of the United States and the Constitution and laws of the Commonwealth of Virginia; and that I will faithfully perform, to the best of my ability, the duties of the office of notary public."

Such oath shall be signed by the applicant and attested by the clerk. The clerk shall thereupon issue to the applicant his commission as notary public or electronic notary public. Within fourteen days of such qualification, the clerk shall certify the fact of such qualification to the Secretary of the Commonwealth.

No person shall be permitted to qualify who does not appear before the clerk within 60 days of his appointment. The clerk of each circuit court shall, at least once each month, return to the Secretary all commissions which have not been claimed within such 60-day period, and the Secretary shall forthwith cancel the same.

Section 47.1-10 Records of the Secretary

The Secretary of the Commonwealth shall keep a record of the names of all notaries public and electronic notaries public and the dates of their registration and qualification. The Secretary shall also retain a specimen of the signature of each notary commissioned pursuant to this chapter. The specimen may be retained in photographic form.

The Secretary shall also be required to retain the completed applications of persons seeking appointment as notary public for a period of three months after their receipt; provided, however, that he shall retain the applications of persons refused appointment for not less than four years.

The Secretary may maintain these records in digital format.

Section 47.1-11 Reference Materials

The Secretary shall prepare, from time to time, reference materials for notaries public and electronic notaries public which shall contain the provisions of this title and such other information as the Secretary shall deem useful. Copies of the reference materials shall be made available to persons seeking appointment as notaries public and electronic notaries public as well as to other interested persons. The Secretary may make the materials available in digital format but shall provide written copies of the materials upon request.

Section 47.1-11.1 Evidence of authenticity of electronic notarial act

A. Form of evidence of authority of electronic notarial act. On a notarized electronic document transmitted to another state or country outside of the United States, electronic evidence of the authenticity of the official signature and seal of an electronic notary of the Commonwealth of Virginia, if required, shall be attached to or logically associated with the document and shall be in the form of an electronic certificate of authority signed by the Secretary that is independently verifiable, will be invalidated if the underlying document is improperly modified, and is in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the government of the United States.

B. Certificate of authority for electronic notarial act. An electronic certificate of authority evidencing the authenticity of the official signature and seal of an electronic notary of the Commonwealth of Virginia shall contain substantially the following words:

Certificate of Authority for an Electronic Notarial Act

I, (name and title), certify that (name of electronic notary), the person named as Electronic Notary Public in the attached or associated electronic document, was commissioned as an Electronic Notary Public for the Commonwealth of Virginia and authorized to act as such at the time of the document's electronic notarization.

To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this day of, 20
(Electronic signature and seal of commissioning official)

C. For issuing an electronic certificate of authority, the Secretary may charge a fee in an amount set by the Secretary.

Section 47.1-12 Powers

Each notary shall be empowered to perform the following notarial acts: (i) take acknowledgments, (ii) administer oaths and affirmations, (iii) certify that a copy of any document, other than a document in the

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custody of a court, is a true copy thereof, (iv) certify affidavits or depositions of witnesses, (v) perform verification of fact, and (vi) perform such other acts as may be specifically permitted by law.

Section 47.1-13 Jurisdiction; powers outside the Commonwealth

- A. The powers of any notary commissioned pursuant to this title may be exercised anywhere within the Commonwealth of Virginia.
- B. Any notary commissioned pursuant to this title may likewise perform notarial acts outside the Commonwealth, where such notarial acts are performed in accordance with this chapter.
- C. An employee of the federal government authorized to perform notarial acts may perform notarial acts in accordance with this chapter.
- D. An electronic notarial act performed in accordance with this chapter shall be deemed to have been performed within the Commonwealth and is governed by Virginia law.

Section 47.1-13.1 Jurisdiction; powers outside the Commonwealth for use in the Commonwealth

- A. Notarial acts may be performed outside the Commonwealth for use in the Commonwealth with the same effect as if performed by a notary public of the Commonwealth by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of the Commonwealth:
 - 1. A notary public authorized to perform notarial acts under the laws of that jurisdiction;
 - 2. A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;
 - 3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;
 - 4. A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States; or
 - 5. Any person authorized to perform acts in the place in which the act is performed.
- B. A document notarized outside the Commonwealth by a notary public or other person referenced in subsection A which appears on its face to be properly notarized shall be presumed to have been notarized properly in accordance with the laws and regulations of the jurisdiction in which the document was notarized.

Section 47.1-14 Duty of Care

- A. A notary shall exercise reasonable care in the performance of his duties generally. He shall exercise a high degree of care in ascertaining the identity of any person whose identity is the subject of a notarial or electronic notarial act.
- B. Unless such person is personally known by the notary, identity shall be ascertained upon presentation of satisfactory evidence of identity as defined in this title.
- C. A notary performing electronic notarial acts shall keep, maintain, protect, and provide for lawful inspection an electronic record of notarial acts that contains at least the following for each notarial act performed: (i) the date and time of day of the notarial act; (ii) the type of notarial act; (iii) the type, title, or a description of the document or proceeding; (iv) the printed name and address of each principal; (v) the

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evidence of identity of each principal in the form of either a statement that the person is personally known to the notary, a notation of the type of identification document, which may be a copy of the driver's license or other photographic image of the individual's face, or the printed name and address of each credible witness swearing or affirming to the person's identity, and, for credible witnesses who are not personally known to the notary or electronic notary, a description of the type of identification documents relied on by the notary; and (vi) the fee, if any, charged for the notarial act. If video and audio conference technology authorized under § 47.1-2 is the basis for satisfactory evidence of identity and the principal's identity has been ascertained upon presentation of such satisfactory evidence of identity, the electronic notary shall keep a copy of the recording of the video and audio conference and a notation of the type of any other identification used. The electronic notary shall take reasonable steps to (a) ensure the integrity, security, and authenticity of electronic notarizations, (b) maintain a backup for his electronic record of notarial acts, and (c) ensure protection of such backup records from unauthorized use. The electronic record of an electronic notarial act shall be maintained for a period of at least five years from the date of the transaction.

D. A notary performing electronic notarial acts shall take reasonable steps to ensure that any registered device used to create an electronic signature is current and has not been revoked or terminated by its issuing or registering authority.

E. A notary performing electronic notarial acts shall keep his record, electronic signature, and physical and electronic seals secure under his exclusive control and shall not allow them to be used by any other notary or any other person.

F. A notary performing electronic notarial acts shall use the notary's electronic signature only for the purpose of performing electronic notarial acts.

G. A notary performing electronic notarial acts, immediately upon discovering that the notary's record, electronic signature, or physical or electronic seal has been lost, stolen, or may be otherwise used by a person other than the notary, shall (i) inform the appropriate law-enforcement agency in the case of theft or vandalism and (ii) notify the Secretary in writing and signed in the official name in which he was commissioned.

Section 47.1-15: Prohibitions

A notary shall not:

1. Notarize a document if the signer is not in the presence of the notary at the time of notarization, unless (i) in the case of an electronic notarization, satisfactory evidence of the identity of the signer is established in accordance with § 47.1-2 or (ii) otherwise authorized by law to do so.
2. Use the official notary title or seal to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering.
3. Notarize a signature on a document without notarial certificate wording on the same page as the signature unless the notarial certificate includes the name of each person whose signature is being notarized.
4. Affix an official signature or seal on a notarial certificate that is incomplete.

A notary shall not perform any official act with the intent to deceive or defraud.

A nonattorney notary shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act. This section does not preclude a notary who is duly qualified, trained, or experienced in a particular industry or professional field from selecting, drafting, completing, or advising on a document or certificate related to a matter within that industry or field or prevent a notary from adding a notarial certificate or electronic notarial certificate to a paper or electronic document at the direction of a principal or lawful authority.

A notary may decline to notarize a document.

Any document notarized prior to July 1, 2008, which does not have the notarial certificate wording on the same page as the signature, but otherwise appears on its face to be properly notarized, shall be deemed

validly notarized.

Section 47.1-15.1 Additional prohibition on advertising; penalties.

A. A notary public shall not offer or provide legal advice on immigration or other legal matters, or represent any person in immigration proceedings, unless such notary public is authorized or licensed to practice law in the Commonwealth or is accredited pursuant to 8 C.F.R. § 292.2 to practice immigration law or represent persons in immigration proceedings.

B. A notary public shall not assume, use, or advertise the title of "notario," "notario publico," or "licenciado," or a term in a language other than English that indicates in such language that the notary is authorized to provide legal advice or practice law, unless such notary public is authorized or licensed to practice law in Virginia.

C. Any person who violates the provisions of subsection B is subject to a civil penalty not to exceed \$500 for a first violation and a civil penalty not to exceed \$1,000 for a second or subsequent violation. All penalties arising under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth and the proceeds shall be deposited into the Legal Aid Services Fund established in § [17.1-278](#).

D. Nothing in this section shall preempt or preclude additional civil, administrative, or criminal penalties authorized by law.

Section 47.1-16 Notarizations to show date of act, etc.

A. Every notarization shall include the date upon which the notarial act was performed, and the county or city and state in which it was performed.

B. A notarial act shall be evidenced by a notarial certificate or electronic notarial certificate signed by a notary in a manner that attributes such signature to the notary public identified on the commission.

C. Upon every writing which is the subject of a notarial act, the notary shall, after his certificate, state the date of the expiration of his commission in substantially the following form:

"My commission expires the day of,"

Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal, or, to an electronic document, the notary shall attach an official electronic seal.

D. The notary shall attach the official electronic signature and seal to the electronic notarial certificate of an electronic document in a manner that is capable of independent verification and renders any subsequent changes or modifications to the electronic document evident.

E. A notary's electronic signature and seal shall conform to the standards for electronic notarization developed in accordance with § [47.1-6.1](#).

Section 47.1-17 Change of name

Any notary duly registered and commissioned in this Commonwealth, who shall legally change his name during his term of office as a notary shall, after such change of name, when performing any notarial act, have written or printed in or annexed to each certificate the words: "I was commissioned notary as ,," or the equivalent. However, any electronic notary public who shall legally change his name shall make application with the Secretary for a new electronic notary commission within 90 days of such legal name change.

Section 47.1-18 Notice change of address, etc.

A. Any notary public who changes the address of his residence shall forthwith notify the Secretary of the fact by mailing or delivering a written notice which shall contain the new address, or in electronic format as the Secretary may prescribe.

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B. Any notary who is commissioned as a nonresident shall notify the Secretary of the Commonwealth of any change in his place of employment.

Section 47.1-19 Fees

A. A notary may, for taking and certifying the acknowledgment of any writing, or administering and certifying an oath, or certifying affidavits and depositions of witnesses, or certifying that a copy of a document is a true copy thereof, charge a fee up to \$5.

B. A notary may, for taking and certifying the acknowledgement of any electronic document, or administering and certifying an oath or affirmation, or certifying electronic affidavits and depositions of witnesses, or certifying that a copy of an electronic document is a true copy thereof, charge a fee not to exceed \$25.

C. Any person appointed as a member of an electoral board or a general registrar shall be prohibited from collecting any fee as a notary during the time of such appointment. Any person appointed as an assistant registrar or officer of election shall be prohibited from collecting any fee as a notary for services relating to the administration of elections or the election laws.

D. It shall be unlawful for any notary to charge more than the fee established herein for any notarial act; however, a notary may recover, with the agreement of the person to be charged, any actual and reasonable expense of traveling to a place where a notarial act is to be performed if it is not the usual place in which the notary performs his office.

Section 47.1-20 Fee agreements with employer

A. Any employer, as a condition of employment of a person who is a notary, may require the employee to perform notarial acts in the course of or in connection with such employment without charging the fee allowed by law for the performance of such acts.

B. It shall not be lawful for any employer to require a notary in his employment to surrender to such employer a fee, if charged, or any part thereof.

Section 47.1-20.1 Validation of certain acts

A. Any employer, as a condition of employment of a person who is a notary, may require the employee to perform notarial acts in the course of or in connection with such employment without charging the fee allowed by law for the performance of such acts.

B. Any employer may require a notary in his employment to surrender to such employer a fee, if charged, or any part thereof, provided that the notarial act for which the fee is charged is performed during the course of such employee's employment.

Section 47.1-21 Commission as notary

The commission of a notary public shall be four years, except as shall be otherwise provided in this title.

The commission of a notary public shall expire in the fourth calendar year after issuance of his commission on the last day of the month in which the notary was born.

Section 47.1-22 Resignation; removal from Commonwealth; etc.

A. A notary may resign his commission by mailing or delivering to the Secretary a letter of resignation.

B. Any notary who ceases to be a resident of the Commonwealth of Virginia shall, from that time, cease to be a notary; provided, however, that such notary may maintain his commission with the written consent of the Secretary if he meets the qualifications for nonresident appointment under § 47.1-4.

C. Any nonresident notary who ceases to be employed in this Commonwealth shall forthwith cease to be a notary.

D. Every notary who wishes to resign from office, or who ceases to be a notary pursuant to

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subsections B or C of this section, shall forthwith mail or deliver his commission to the Secretary, who shall cancel the same. The notary shall be responsible for the destruction of the official physical seal.

E. Every electronic notary who wishes to resign his commission or who ceases to be a notary pursuant to this section shall forthwith erase, delete, or destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the notary's official electronic signature or seal and so certify to the Secretary.

F. A former electronic notary, whose previous commission or application was not revoked or denied, need not erase, delete, or destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the notary's official electronic signature or seal if he is recommissioned and reregistered as an electronic notary using the same electronic signature and seal within three months after commission expiration.

Section 47.1-23 Grounds for removal from office

The Secretary may revoke the commission of any notary who:

1. Submits or has submitted an application for commission and appointment as a notary public which contains a substantial and material misstatement of fact;
2. Is convicted or has been convicted of any felony under the laws of the United States or this Commonwealth, or the laws of any other state, unless the notary has been pardoned for such offense, has had his conviction vacated by a granting of a writ of actual innocence, or has had his rights restored;
3. Is found to have committed official misconduct by a proceeding as provided in Chapter 5 (§ [47.1-24](#) et seq.);
4. Fails to exercise the powers or perform the duties of a notary public in accordance with this title, provided that if a notary is adjudged liable in any court of the Commonwealth in any action grounded in fraud, misrepresentation, impersonation, or violation of the notary laws of the Commonwealth, such notary shall be presumed removable under this section;
5. Performs a prohibited act pursuant to § [47.1-15](#) or [47.1-15.1](#);
6. Is convicted of the unauthorized practice of law pursuant to § [54.1-3904](#), or is a licensed attorney at law whose license is suspended or revoked;
7. Ceases to be a legal resident of the United States;
8. Becomes incapable of reading or writing the English language;
9. Is adjudicated mentally incompetent; or
10. Fails to keep the official physical seal, journal, or device, coding, disk, certificate, card, software, or passwords used to affix the notary's official electronic signature or seal under the exclusive control of the notary when not in use.

Section 47.1-24 Removal of notary by administrative process; surrender of commission; penalty

A. Whenever the Secretary shall have reason to believe that a notary has been guilty of official misconduct pursuant to this chapter, or is otherwise subject to removal from office, an evidentiary proceeding under the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) shall be held.

B through D. [Repealed.]

E. If the Secretary determines that the notary is guilty of official misconduct or grounds exist for the removal of the notary and his case decision is not thereafter reversed or suspended by a court of law, the Secretary may issue an order removing the notary from office, suspending the notary from office for a period of time not to extend beyond the date of expiration of the notary's commission, or reprimanding the notary.

F. Upon being notified that an evidentiary proceeding has been initiated under this section, the notary who is the subject of such a proceeding shall forthwith cease to serve as a notary for a period of sixty days, or until his case has been decided, whichever period shall be shorter. If the Secretary finds that grounds for removal exist, such notary shall be further suspended from serving as a notary until the

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Secretary has made a final disposition of the case under subsection E of this section; however, no notarial act shall be deemed invalid solely by reason of having been performed by a notary who has been suspended pursuant to this subsection.

G. Any notary ordered removed from office under this section shall forthwith mail or deliver his commission to the Secretary, who shall cancel the same. Any notary ordered suspended under this section shall forthwith surrender his commission to the Secretary for the duration of such suspension.

H. [Repealed.]

I. Any notary failing to deliver his commission to the Secretary pursuant to an order of the Secretary under this section shall be guilty of a Class 3 misdemeanor.

Section 47.1-25 Disqualification from office

Any notary removed from office under the provisions of § 47.1-24 shall be disqualified from maintaining the commission of notary public in this Commonwealth for a period of twenty years, unless such disqualification is sooner removed by the Governor.

Section 47.1-26 Civil liability of notary

A notary public shall be liable for all damages proximately caused by his official misconduct.

Section 47.1-27 Civil liability of employer of notary

The employer of a notary public shall also be liable for all damages proximately caused by the official misconduct by such notary if:

1. The notary public was acting within the scope of his employment at the time such damages were caused; and
2. The employer had actual knowledge of, or reasonably should have known of, such notary's misconduct.

Section 47.1-28 Willful misconduct a misdemeanor

A. Any notary who knowingly and willfully commits any official misconduct under Chapter 5 (§ 47.1-24 et seq.) of this title shall be guilty of a Class 3 misdemeanor.

B. Any employer of a notary who willfully induces such notary to commit official misconduct under Chapter 5 of this title shall be guilty of a Class 3 misdemeanor.

C. Any person who knowingly and willfully misrepresents on an application for commission as a notary whether they have been convicted of any felony under the laws of this Commonwealth, of any other state, or of the United States shall be guilty of a Class 1 misdemeanor.

Section 47.1-29 Impersonation of a notary a felony

Any person who shall willfully act as, or otherwise impersonate, a notary public while not lawfully commissioned as a notary public or other official authorized to perform notarial acts, shall be guilty of a Class 6 felony.

Section 47.1-29.1 Wrongful possession of software or hardware

Any person who knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling an electronic notary to affix an official electronic signature or seal, without authority, shall be guilty of a Class 1 misdemeanor.

Section 47.1-30 Conflicts of Interest

No notary shall perform any notarial act with respect to any document, writing, or electronic document to which the notary or his spouse is a party, or in which either of them has a direct beneficial interest, or where

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the notary is a signatory or is named in the document to be notarized, except that a notary named in a document for the purpose of receiving notices, or named in a document as executor, trustee, or other fiduciary, shall not, for that reason alone, be precluded from performing notarial acts with respect to such document.

Any notary who violates the provisions of this section shall be guilty of official misconduct.

A notarial act performed in violation of this section shall not automatically be void for such reason, but shall be voidable in the discretion of any court of competent jurisdiction upon the motion of any person injured thereby.

Section 47.1-31 through 47.1-33

Repealed by Acts 2007, cc. 269 and 590, cl. 2.

(NOTE: Other provisions of the Uniform Recognition of Acknowledgments Act not found here may be found in the Code of Virginia.)

Section 55-118.1 "Notarial Act" defined; who may perform notarial acts outside this Commonwealth for use in the Commonwealth

For the purposes of this article, "notarial acts" means acts which the laws and regulations of this Commonwealth authorize notaries public of this Commonwealth to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this Commonwealth for use in this Commonwealth with the same effect as if performed by a notary public of this Commonwealth by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this Commonwealth:

- (1) A notary public authorized to perform notarial acts in the place in which the act is performed;
- (2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;
- (3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;
- (4) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States; or
- (5) Any other person authorized to perform notarial acts in the place in which the act is performed.

Section 55-118.2 Proof of authority of person performing notarial act

(a) If the notarial act is performed by any of the persons described in paragraphs (1) through (4) of § 55-118.1, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

(b) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

- (1) Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;
- (2) The official seal of the person performing the notarial act is affixed to the document; or

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(3) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(c) If the notarial act is performed by a person other than one described in subsections (a) and (b), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

(d) The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

Section 55-118.3 What person taking acknowledgment shall certify

The person taking an acknowledgment shall certify that:

- (1) The person acknowledging appeared before him and acknowledged he executed the instrument; and
- (2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

Section 55-118.4 When form of certificate of acknowledgment accepted

The form of a certificate of acknowledgment used by a person whose authority is recognized under § 55-118.1 shall be accepted in this Commonwealth if:

- (1) The certificate is in a form prescribed by the laws or regulations of this Commonwealth;
- (2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
- (3) The certificate contains the words "acknowledged before me," or their substantial equivalent.

Section 55-118.5 Meaning of "acknowledged before me"

The words "acknowledged before me" mean

- (1) That the person acknowledging appeared before the person taking the acknowledgment,
- (2) That he acknowledged he executed the instrument,
- (3) That, in the case of:
 - (i) A natural person, he executed the instrument for the purposes therein stated;
 - (ii) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;
 - (iii) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated;
 - (iv) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated; or
 - (v) A person acknowledging as a public officer, trustee, administrator, guardian, conservator or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated, and
- (4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

Section 55-118.6 Statutory short forms of acknowledgment

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this Commonwealth. The forms shall be known as "Statutory Short Forms

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of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in his own right:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(2) For a corporation:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(3) For a partnership:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(4) For an individual acting as principal by an attorney-in-fact:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of attorney-in-fact) as attorney-in-fact on behalf of (name of principal).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(5) By any public officer, trustee, or personal representative:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

Section 55-120 Acknowledgments on behalf of corporations and others

When any writing purports to have been signed in behalf or by authority of any person or corporation, or in any representative capacity whatsoever, the certificate of the acknowledgment by the person so signing the writing shall be sufficient for the purposes of this and §§ 55-106, 55-113, 55-114, and 55-115, and for the admission of such writing to record as to the person or corporation on whose behalf it is signed, or as to the representative character of the person so signing the same, as the case may be, without

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expressing that such acknowledgment was in behalf or by authority of such other person or corporation or was in a representative capacity. In the case of a writing signed in behalf or by authority of any person or corporation or in any representative capacity a certificate to the following effect shall be sufficient:

State (or territory or district) of, county (or corporation) of, to wit: I,
., a (here insert the official title of the person certifying the acknowledgment) in and for
the State (or territory or district) and county (or corporation) aforesaid, do certify that
. . (here insert the name or names of the persons signing the writing on behalf of the person or corporation,
or the name of the person signing the writing in a representative capacity), whose name (or names) is (or
are) signed to the writing above, bearing date on the day of, has (or have)
acknowledged the same before me in my county (or corporation) aforesaid. Given under my hand this
. day of

Section 55-121 Corporate Acknowledgment taken before officer or stockholder

Any notary or other officer duly authorized to take acknowledgments may take the acknowledgment to any deed or other writing, executed by a company, or to a company or for the benefit of a company, although he may be a stockholder, an officer, or both, in such company; provided he is not otherwise interested in the property conveyed or disposed of by such deed or other writing; and nothing herein shall be construed to authorize any officer to take an acknowledgment to any deed or other writing executed by such company by and through him as an officer or stockholder thereof, or to him for the benefit of such company.

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