

## CODE OF VIRGINIA

### TITLE 47.1. NOTARIES AND OUT-OF-STATE COMMISSIONERS CHAPTER 1. GENERAL PROVISIONS

#### § 47.1-1 Short title

This title may be cited as the “Virginia Notary Act.”  
(1980, c. 580)

#### § 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 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 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 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.

(1980, c. 580; 2007, cc. 269, 590; 2011, c. 834; 2012, c. 566)

## **CHAPTER 2. APPOINTMENT**

### **§ 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.

(Code 1950, Section 47-2; 1962, p. 287; 1972, c. 824; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2007, c. 269)

### **§ 47.1-4 Qualifications for appointment**

A. To be qualified to be commissioned as a notary in the Commonwealth, each such person (i) shall 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.

(Code 1950, Sections 47-2, 47-3; 1972, c. 824; 1976, c. 559; 1979, c. 14; 1980, c. 580; 1983, c. 435; 1986, c. 561; 1989, c. 163; 2007, c. 269; 2013, c. 86)

### **§ 47.1-5 Application; references**

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 application 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.

(Code 1950, Sections 47.2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2001, c. 488; 2002, c. 832; 2007, c. 269; 2008, c. 116)

**§ 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.

(2011, cc. 123, 177; 2014, c.703)

**§ 47.1-6: Reserved**

**Section 47.1-6.1. Standards for 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 (Section 2.2-4000 et seq.).

(2009, c. 160)

**§ 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 Section 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.

(2007, c. 269; 2009, c. 160; 2011, cc. 731, 834)

**§ 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.  
(Code 1950, Section 47-2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2007, c. 269; 2008, c. 116)

**§ 47.1-9 Notary Oath; duties of clerks**

Before receiving his commission, each person appointed a 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 14 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.  
(1980, c. 580; 2007, c. 269; 2008, c. 116; 2012, c. 566)

**§ 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.  
(Code 1950, Section 47-2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2007, c. 269)

**§ 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.  
(1980, c. 580; 2007, c. 269)

**§ 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.  
(2007, c. 269)

### CHAPTER 3. POWERS AND DUTIES

#### § 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 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.

(Code 1950, Section 47-2.1-, 1978, c. 621; 1980, c. 580; 2007, c. 269; 2011, cc. 731, 834)

#### § 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.

(Code 1950, Section 47-2. 1; 1978, c. 62 1; 1980, c. 580; 2007, c. 269; 2008, c. 116; 2011, cc. 731, 834)

#### § 47.1-13.1. Notarial 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.
- (2008, c. 116)

#### **§ 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 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 Section 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.

(1980, c. 580; 2002, c. 379; 2007, cc. 269, 590; 2008, cc. 117, 814; 2011, cc. 731, 834.)

#### **§ 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 Section 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.

(2007, c. 269; 2008, c. 685; 2011, cc. 731, 834)

#### **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. Section 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 Section 17.1-278.

D. Nothing in this section shall preempt or preclude additional civil, administrative, or criminal penalties authorized by law.  
(2014, cc. 544, 783)

**§ 47.1-16. Notarizations to show date of act, official signature and seal, 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 Section 47.1-6.1.  
(Code 1950, Section 55-116; 1980, c. 580; 2007, c. 269; 2008, c. 116; 2009, c. 160)

**§ 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.  
(Code 1950, Section 55-117; 1973, c. 401; 1980, c. 580; 2007, c. 269)

**§ 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.

B. Any notary who is commissioned as a nonresident shall notify the Secretary of the Commonwealth of any change in his place of employment.  
(1980, c. 580; 2007, c. 269)

**§ 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.

(1996, c. 219; 2007, c. 227; 2007, c. 269)

#### **§ 47.1-20 Fee for 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. 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.

(1980, c. 580; 2007, c. 269; 2018 c. 698)

#### **§ 47.1-20-1 Validation of certain acts**

Oaths of office administered by a notary public on or before July 1, 1982, are hereby deemed to be valid and actions of any public officer taking such oaths are hereby deemed valid.

(1983, c. 435)

### **CHAPTER 4. TERM OF OFFICE**

#### **§ 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.

(1980, c. 580; 1989, c. 594; 2007, c. 269)

#### **§ 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 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.

(1980, c. 580; 2007, c. 269)

#### **§ 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 this 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.

(Code 1950, Section 47-2; 1962, p. 687; 1976, c. 559; 1979, c 14; 1980, c. 580; 1983, c. 435; 2007, c. 269; 2013, c. 86; 2014, cc. 544, 783)

### **CHAPTER 5. REMOVAL 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 (Section 2.2-400 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 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.

(Code 1950, Sections 47-2.1 through 47-4.6, 47-4.8; 1972, c. 824; 1978, c. 621; 1979, c. 410; 1980, c. 580; 1983, c. 435)

#### **§ 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.

(Code 1950, § 47-4.7; 1979, c. 410; 1980, c. 580; 2007, c. 269)

### **CHAPTER 6. CIVIL AND CRIMINAL LIABILITY**

#### **47.1-26 Civil liability of notary**

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

(Code 1950, Section 47-3; 1972, c. 824; 1980, c. 580)

#### **§ 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 (1980, c. 580)

#### **§ 47.1-28 Willful misconduct a misdemeanor**

A. Any notary who knowingly and willfully commits any official misconduct under Chapter 5 (Section 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.

(1980, c. 580; 2008, c. 116)

**§ 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.

(1980, c. 580)

**§ 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.

(2007, c. 269)

**§ 47.1-30 Conflict of interests**

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 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.

(1980, c. 580; 1992, c. 194; 2007, c. 269; 2011, c. 746; 2012, c. 566)

**TITLE 55. PROPERTY AND CONVEYANCES**

**CHAPTER 6. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT**

**§ 55-118.1. “Notarial Act” defined; who may perform notarial acts outside State for use in the State.**

For the purposes of this article, “notarial acts” means acts which the laws and regulations of this State authorize notaries public of this State 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 State for use in this State with same effect as if performed by a notary public of this State 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 State:

(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 persons 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.

(1970, c. 719)

**§ 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 certified 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

(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 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.

(1970, c. 719)

**§ 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.

(1970, c. 719)

**§ 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 State if:

(1) The certificate is in a form prescribed by the laws or regulations of this State;

(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.

(1970, c. 719)

**§ 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.

(1970, c. 719; 1997, c. 801)

**§ 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 State. The forms shall be known as “Statutory Short Forms 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 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) or (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)

(1970, c. 719.)

**§ 55-118.7. Application of article; article cumulative. —**

A notarial act performed prior to June 26, 1970, is not affected by this article. This article provides an additional method of proving notarial acts. Nothing in this article diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this Commonwealth.

(1970, c. 719.)

**§ 55-118.8. Uniform interpretation. —**

This article shall be so interpreted as to make uniform the laws of those states which enact it.

(1970, c. 719.)

**§ 55-118.9. Short title. —**

This article may be cited as the Uniform Recognition of Acknowledgments Act.

(1970, c. 719.)

**§ 55-119. Deeds of corporations; how to be executed and acknowledged.**

All deeds made by corporations shall be signed in the name of the corporation by the president or acting president, or any vice-president, or by such other person as may be



authorized thereunto by the board of directors of such corporation, and, if such deed is to be recorded, the person signing the name of the corporation shall acknowledge the same in the manner provided by § 55-120.

(Code 1919, § 5208; 1920, p. 586; 1959, Ex. Sess., c. 41; 1975, c. 500)

**§ 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 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 \_\_\_\_\_ (insert here 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 \_\_\_\_\_ (insert here the name of 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 \_\_\_\_\_.

(Code 1919, § 5207)

**§ 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 to the 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.

(Code 1919, § 5209; 1926, p. 340)

**TITLE 6.1 BANKING AND FINANCE  
CHAPTER 8. SAFE-DEPOSIT OR STORAGE BUSINESS**

**§ 6.1-331. Notice to lessee of safe or box that same will be opened for nonpayment of rent.**

Whenever any amount due for the use of any safe or box, in the vaults of any safe-deposit company, bank, trust company, or other corporation conducting a safe-deposit business, shall have remained unpaid for a period of one year, such company, bank, trust company, or other corporation may, at the expiration of such period, send to the person, partnership or corporation in whose name such safe or box stands on its books a notice in writing in a securely closed, postpaid, registered or certified letter, directed to such renter or lessee at his last known post-office address, notifying such renter or lessee that if the amount due for the rental of such safe or box shall not be paid within sixty days from the

date of sending such notice, the company, bank, trust company, or other corporation will then cause such safe or box to be opened, and the contents thereof to be inventoried, sealed, and placed in one of the general safes or boxes of the company, bank, trust company, or other corporation.

(Code 1950, § 6-263; 1966, c. 584; 1993, c. 62; 1997, c. 129)

**§ 6.1-332. Access to joint safety-deposit box. —**

When a safety-deposit box shall have been hired, or shall hereafter be hired, from any bank or trust company transacting business in this Commonwealth, under the name of two or more persons, with the right of access being given to either, or with access to either the survivor or survivors of such persons, any one or more of such persons, whether the other or others be living or not shall have the right of access to such deposit vault, and may remove therefrom the contents of such box; and in case of such removal such bank or trust company shall be exempt from any liability for permitting such person access thereto.

(Code 1950, § 6-264; 1966, c. 584)

**§ 6.1-332.1. Limited access to safe-deposit box.**

A. Upon the death of a sole lessee of a safe-deposit box, the company or bank may permit limited access to the box by the spouse or next of kin of the deceased lessee or by a court clerk or other interested person for the limited purpose of looking for a will or other testamentary instruments. Access shall be under the supervision of a designated officer or employee, and nothing shall be removed from the box except the will or testamentary instrument for transmission to the appropriate clerk. If the box is co-leased, the company or bank may permit entry into the box by the spouse or next of kin or court clerk or other interested person for the purpose of looking for testamentary instruments and subject to the limitations above, upon proof satisfactory to it that the then co-lessees are not reasonably available for access to the box. The company or bank may require such proof of death as it deems necessary.

B. Upon receiving a letter from a licensed physician that in his professional opinion an individual, who is the sole lessee of a safe-deposit box, is incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that the individual lacks the capacity to manage property or financial affairs or provide for his support or for the support of his legal dependents without the assistance or protection of another, the company or bank may permit access to such box for the limited purpose of looking for a power of attorney executed by the lessee that relates to the management of his property or financial affairs. Such access shall be limited to the lessee's spouse, next of kin, and persons asserting a knowledge or belief that they are named as an agent in such a power of attorney believed to be in the box. Access shall be under the supervision of a designated officer or employee, and nothing shall be removed from the box except the power of attorney for transmission to a person named as agent therein. If the box is co-leased, the company or bank may permit entry into the box by the same persons and under the same circumstances and terms as specified above, upon proof satisfactory to it that the then co-lessees are not reasonably available for access to the box.

C. Upon receiving a letter from a licensed physician that in his professional opinion an individual, who is the sole lessee of a safe-deposit box, is incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that the individual lacks the capacity to meet the essential requirements for his health, care, safety, or therapeutic needs without the assistance or protection of another, the

company or bank may permit access to such box for the limited purpose of looking for an advance medical directive executed by the lessee. Such access shall be limited to the lessee's guardian, spouse, next of kin, and persons asserting a knowledge or belief that they are named as an agent in an advance medical directive believed to be in the box. Access shall be under the supervision of a designated officer or employee, and nothing shall be removed from the box except the advance medical directive for transmission to a person named as agent therein or, in the absence of such a person, to the lessee's attending physician to be made a part of the lessee's medical records. If the box is co-leased, the company or bank may permit entry into the box by the same persons and under the same circumstances and terms as specified above, upon proof satisfactory to it that the then co-lessees are not reasonably available for access to the box.

D. The company or bank shall make a photocopy of any document removed from a lessee's box pursuant to this section and place such copy in the box prior to delivering the original to any person, and it shall not be liable except for acting in bad faith or the permitting of the removal of other items from the safe-deposit box.

(1984, c. 446; 2002, c. 312; 2003, c. 269)

**§ 6.1-333. Duty to deny access to safe-deposit boxes under certain conditions. —**

In any case where a company, bank, trust company, or other corporation, hereinafter called "bank," having for rent safe-deposit boxes is served with notice of lien of fieri facias or other process under §§ 8.01-474, 8.01-478, 8.01-479, 8.01-501 through 8.01-504, 58.1-1804, 58.1-2020, or § 58.1-3952, or a notice of levy for federal taxes, or an attachment with respect to a safe-deposit box, in which a renter or lessee, hereinafter called "lessee" of such safe-deposit box is named defendant or judgment debtor or taxpayer, hereinafter called "defendant," and such notice of lien, process, notice of levy or attachment states the office where such safe-deposit box is located, it shall be the duty of such bank to deny such lessee access to the safe-deposit box leased in the name of the defendant unless otherwise directed by a court of competent jurisdiction or by the judgment creditor, or the plaintiff or the District Director of Internal Revenue or the appropriate state tax official, hereinafter called the "judgment creditor."

If the notice of lien or other process or notice of levy or attachment names less than all of the co-lessees of a safe-deposit box, the bank, where the rental contract or lease so provides, may deny access to all co-lessees, unless otherwise directed by a court of competent jurisdiction or the judgment creditor; however, the bank may allow access to such co-lessee and in so doing must comply with the requirements of this section in the same manner and in all respects as if no such rental contract or lease provision existed. Where the rental contract or lease does not provide for denial of access to co-lessees not named in the said notice of lien or other process or notice of levy or attachment as set forth in the foregoing paragraph, the bank shall not deny access to any such co-lessee not so named who shall sign the hereinafter required acknowledgment.

Notice of any lien or other process or notice of levy or attachment shall be given by the bank and a written and signed acknowledgment received from each co-lessee not named in said notice of lien or other process or notice of levy or attachment prior to such co-lessee's said entry into said safe-deposit box. If thereafter any co-lessee shall knowingly remove from any such safe-deposit box any property subject to said lien or other process or notice of levy or attachment, he shall be deemed guilty of larceny; and the notice given to such co-lessee by the bank shall so inform said co-lessee.

(Code 1950, § 6-264.1; 1956, c. 82; 1966, c. 584; 1968, c. 574; 1992, c. 17)

**§ 6.1-334. Opening box; marking contents.**

Upon the expiration of 60 days from the date of mailing the notice required by § 6.1-331 and the failure within such period of time of the renter or lessee in whose name the safe or box stands on the books of the company, bank, trust company, or other corporation to pay the amount due for the rental thereof to the time of payment, together with legal interest thereon, the company, bank, trust company, or other corporation may, in the presence of two bank employees, one of whom shall be a notary public, cause such safe or box to be opened, and the contents thereof, if any, to be removed, inventoried and sealed up by such notary public in a package, upon which the notary shall distinctly mark the name of the renter or lessee in whose name the safe or box stood on the books of the company, bank, trust company or other corporation, and the date of removal of the property. (Code 1950, § 6-265; 1966, c. 584; 2003, c. 437)

**§ 6.1-335. Disposition of contents.**

When a package has been marked for identification by a notary public as required under the provisions of the preceding section (§ 6.1-334), it shall, in the presence of any one of the above-named officers of the company, bank, trust company or other corporation, be placed by the notary public in one of the general safes or boxes of the company, at a rental not to exceed the original rental of the safe or box which was opened, and shall remain in such general safe or box for a period of not less than two years, unless sooner removed by such renter or lessee. (Code 1950, § 6-266; 1966, c. 584)

**§ 6.1-336. Certificate of notary.**

The notary public who shall have placed a package as required under the provisions of the preceding section (§ 6.1-335) shall thereupon file with the company a certificate, under seal, which shall fully set out the date of the opening of such safe or box, the name of the renter or lessee in whose name it stood and a list of the contents, if any. Such certificate shall be sworn to by such notary public and shall be prima facie evidence of the facts therein set forth in all proceedings at law and in equity wherein evidence of such facts would be competent. A copy of such certificate shall, within ten days thereafter, be mailed to the renter or lessee in whose name the safe or box so opened stood on the books of the company, bank, trust company, or other corporation, at his last known post-office address, in a securely closed, postpaid, registered or certified letter, together with a notice that the contents will be kept, at the expense of such renter or lessee, in a general safe or box in the vaults of the company, bank, trust company, or other corporation, for a period of not less than two years, unless sooner removed by such renter or lessee. (Code 1950, § 6-267; 1966, c. 584; 1997, c. 129)

**§ 6.1-337. Subsequent right of lessee to contents.**

At any time after the mailing of such notice as is required by the preceding section (§ 6.1-336) and before the expiration of two years, such renter or lessee may require the delivery of the contents of the safe or box as shown by the certificate, upon the payment of all rentals due at the time of opening the safe or box, the cost of opening the safe or box, the fees of the notary public for issuing his certificate thereon, and the payment of all charges accrued during the period the contents remained in the general safe or box of the company, bank, trust company, or other corporation, together with legal interest on such

rentals, costs, fees, and charges.  
(Code 1950, § 6-268; 1966, c. 584)

**TITLE 17.1. COURTS OF RECORD**  
**CHAPTER 2. CLERKS, CLERKS' OFFICES AND RECORDS**  
**ARTICLE 4.1. ELECTRONIC FILING.**

**§ 17.1-258.2. Definition.**

As used in this article, “electronic filing of documents” means the filing or recordation with a circuit court clerk of written information as defined in § 1-257, for the purpose of creating an electronic record as defined in subdivision 7 of § 59.1-480.  
(2005, c. 744.)

**§ 17.1-258.3. Electronic filing in civil or criminal actions.**

A clerk of circuit court may establish a system for electronic filing in civil or criminal actions that shall be governed by Rule 1:17 of the Rules of Supreme Court of Virginia. The circuit court clerk shall enter into an agreement with each person whom the clerk authorizes to file documents electronically, specifying the electronic filing procedures to be followed, including, but not limited to, security procedures, as defined in the Uniform Electronic Transactions Act, for transmitting notarized documents.  
(2005, c. 744; 2008, cc. 823, 833.)

**§ 17.1-258.3:1. Electronic filing of land records.**

A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.) and the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages. The clerk may charge a fee to be assessed for each instrument recorded electronically in an amount not to exceed \$5 per document. The fee shall be paid to the clerk’s office and deposited by the clerk into a special nonreverting local fund to be used to cover operational expenses of such network or system. Operational expenses of such network or system shall include, but not be limited to, computer support, maintenance, enhancements, upgrades, and replacements, and consulting services. The clerk shall enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein.  
(2008, cc. 823, 833.)

**§ 17.1-258.4. Signature; when effective as original.**

A. If the electronically filed document contains an electronic signature pursuant to the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), any statutory requirement for original signature shall be deemed to be satisfied.

B. Any statutory requirement for a document to be notarized shall be deemed satisfied by the appropriately executed electronic signature of such notary pursuant to the Virginia Notary Act (§ 47.1-1 et seq.).  
(2005, c. 744; 2008, cc. 823, 833.)

**§ 17.1-258.5. Application.**

All documents recorded on or after July 1, 2004 that comply with the provisions of this article shall be conclusively presumed to be in proper form for recording, except in cases of fraud.

(2005, c. 744.)

**The Virginia Electronic Notarization Assurance Standard**

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**Scope and Intent**

The challenges before notaries in the Commonwealth of Virginia, throughout the United States, and around the world are to preserve and strengthen the role of the notary in the rapidly emerging digital economy and to ensure reliability and cross-border recognition of notarized electronic documents in a global economy. Consequently, notaries in the Commonwealth of Virginia should transition to performing electronic notarizations that have the same legal effect and admissibility as currently presumed by their physical-world counterparts.

The validity and enforceability of an electronically notarized document rests upon confirming the legitimacy of the notary who signed the record and establishing the integrity of the signed record itself.

- Legitimacy involves verifying the identity of the electronic notary who created the electronic signature and the electronic notary's official status.
- Integrity involves corroborating that the presented record accurately reflects the data and form of the record originally electronically signed by the electronic notary.

In recent years, distinguished notarial experts from the United States and around the world have studied electronic notarization systems. A consistent message has been that a digital certificate in a public key infrastructure is the technology best suited *today* to achieve these aims.

To fulfill the requirements of Virginia Code §47.1-6.1, and in an effort to standardize the processes and procedures for performing electronic notarization, including the issuance of digital certificates used by Virginia electronic notaries, the Secretary of the Commonwealth of Virginia has looked to standards previously promulgated by the National Association of Secretaries of State, Arizona, Colorado, Florida, Kansas, New Mexico, North Carolina, Pennsylvania, and Notary Societies from Common Law and Civil Law jurisdictions to develop the Virginia Electronic Notarization Assurance Standard (the "Virginia Standard"). The goal of this Virginia Standard is to achieve recognition of Virginia electronic notary signatures and seals as well as electronic notarization systems that would facilitate acceptance of Virginia electronic notarial acts worldwide.

## **Influences on the Virginia Standard**

### **A. The Virginia Standard Reflects the National Association of Secretaries of State (USA) Electronic Notarization Standard for Document Security**

The National Association of Secretaries of State has established performance expectations for electronic notary signatures and seals and their use. Consistent with paragraphs and of the Electronic Notarization Standards of the National Association Secretaries of State, the Virginia Standard specifies how the electronic notary must maintain exclusive control over the electronic signature and seal. In addition, the requirement in the Virginia Code that the electronically notarized document be rendered tamper evident is consistent with paragraph of the National Association of Secretaries of State Electronic Notarization Standards. This paragraph specifies that “[w]hen performing an electronic notarization, a notary public shall apply an electronic signature, which shall be attached to or logically associated with the electronic document such that removal or alteration of such electronic signature is detectable and will render evidence of alteration of the document containing the notary certificate which may invalidate the electronic notarial act.”

### **B. The Virginia Standard Reflects Previously State-Issued Electronic Notarization Standards in the United States**

The Virginia Standard relies on previously well-considered e-notarization standards issued by Arizona, Colorado, Florida, Kansas, New Mexico, North Carolina, and Pennsylvania. In particular, the Virginia Standard borrows the concept of an Electronic Notarization System from Arizona, Colorado, Florida, and North Carolina. In addition, the Virginia Standard borrows from Arizona, Florida, Kansas, New Mexico, and Pennsylvania the best practice of reliance on digital certificates that are securely issued and managed by a trusted root Certificate Authority.

### **C. The Virginia Standard is Consistent with Existing Electronic Signature Laws and Standards**

This standard reflects the requirements of the following authoritative electronic signature sources:

- (a) the United States Electronic Signatures in Global and National Commerce Act (“E-SIGN”),<sup>1</sup>
- (b) the Uniform Electronic Transactions Act,<sup>2</sup> and
- (c) the Uniform Real Property Electronic Recording Act.<sup>3</sup>

The challenge facing the global move toward electronic notarization is establishing a legally reliable approach for performing and evidencing the electronic notarial act and managing notaries’ electronic signatures and seals. Without a Virginia Standard that is

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<sup>1</sup> 15 U.S.C.A. §§ 7001 *et seq.*

<sup>2</sup> UNIF. ELEC. TRANSACTIONS ACT (Nat’l Conf. of Comm’rs on Unif. State Laws, 1999) enacted in Virginia at VA. CODE ANN. § 59.1-479 *et seq.*

<sup>3</sup> UNIF. REAL PROPERTY ELEC. RECORDING ACT (Nat’l Conf. of Comm’rs on Unif. State Laws, 2004), enacted in Virginia at VA. CODE ANN. § 55-142.10 *et seq.*

aligned to the various national signature laws and emerging industry access control and secure messaging requirements, notaries could face the need to have access to multiple electronic signing credentials and systems. At the same time, every relying party should know that the electronic signature and seal of the Virginia electronic notary are as legally valid and reliable as the electronic signature and seal of a notary in any other jurisdiction.

## Definitions

- (a) “Accessed by biometric data” means proving the identity of a user by requiring verification of the user’s identity through technologies that require measurement and analysis of one or more human physiological or behavioral characteristics of the user in order to access and use a digital certificate. Biometric data includes fingerprint scanning, retinal scanning, hand geometry, voice recognition, and handwriting analysis.
- (b) “Appear or appears in person” means either in the same physical location or by two-way live video and audio conference communication.
- (c) “Attach” means the electronic notary’s electronic signature and seal are securely bound to the electronic document in such a manner as to make it impracticable to falsify or alter, without detection, either the signature or the document.
- (d) “Capable of independent verification” means that any interested person may confirm the validity of an electronic notarial act, including the electronic signature and seal, through a publicly accessible system and in compliance with the X.509 digital certificate standard.
- (e) “Digital certificate” means a computer-based record or electronic file issued to an electronic notary for the purpose of creating an official electronic signature in conformance with this Standard.
- (f) “Electronic document” means any electronic record or file that can be signed with a digital certificate or an electronic notarization system.
- (g) “Electronic notarization system” means a set of applications, programs, hardware, software, or technology designed to enable an electronic notary to perform electronic notarizations, including online notarizations, in the manner of a security procedure as that term is defined below and in the Uniform Electronic Transactions Act (Virginia Code §59.1-479 *et seq.*).
- (h) “Exclusive control” means accessible by and attributable solely to the electronic notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the electronic notary or through being secured with one or more biometric, password, token, or other authentication technologies in an electronic notarization system that meets the performance requirements of Virginia Code §47.1-14 and §47.1-16.
- (i) “Online notarization or online notarial act” means the performance of an electronic notarial act by means of two-way live audio and video conference technology that meets the performance requirements of Virginia Code §47.1-2 and §19.2-3.1 B1, B2, and B3.
- (j) “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, document, or performance is that of a specific person or for detecting changes or errors in the information in an electronic document. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback, or other acknowledgment procedures.



- (k) "Signing key" means the private cryptographic key of a digital certificate.
- (l) "Standard" means the Virginia Electronic Notarization Assurance Standard.

## **Article 1: Electronic Notarization Generally**

### **1.1 Registration**

- (a) Before performing any electronic notarial acts, a notary shall register the capability to notarize electronically, including the means for completing online notarizations. The Secretary shall develop a form to be submitted by each notary for this purpose. The form must be resubmitted upon renewal of the electronic notary commission.
- (b) Upon successful completion of all registration requirements, the Secretary of the Commonwealth shall email to the notary's email address on file an approval letter that confirms the commission to act as an electronic notary.
- (c) The Secretary of the Commonwealth will not render an opinion or determination as to whether a particular electronic notarization system or technology used by a notary is in compliance with this Standard or the Code of Virginia. Responsibility for compliance is solely on the electronic notary.

### **1.2 Basic Performance Requirements for the Electronic Notarial Act**

- (a) In performing electronic notarial acts, an electronic notary shall continue to adhere to all rules governing paper-based notarial acts, except that notaries performing online notarial acts can allow signers to appear before the electronic notary via two-way live video and audio conference, consistent with Virginia Code [§47.1-2](#) and [§19.2-3.1 B1, B2, and B3](#).
- (b) An electronic notary shall not perform an electronic notarization if the document signer does not appear before the electronic notary at the time of the notarization either in the same physical location or by means of two-way live video and audio conference.
- (c) A notary shall not use a digital certificate as the electronic notary's official electronic signature and seal if that digital certificate has expired or been revoked.
- (d) The official electronic signature and seal of the electronic notary shall be used to digitally sign the electronic document in such a manner that relying parties can detect unauthorized tampering or alteration of the electronic document after it has been digitally signed by the electronic notary.

### **1.3 Electronic Record of Notarial Acts**

In accordance with Virginia Code [§47.1-14](#), an electronic record of notarial acts shall:

- (a) Allow record entries to be made, viewed, printed out, and copied by an electronic notary only after access is obtained by at least one factor of authentication such as a password, biometric verification, token, or other form of authentication.
- (b) Not allow a record entry to be deleted or altered in content or sequence by the electronic notary or any other person after a record of the electronic notarization is entered and stored.
- (c) Have a backup system in place to provide a duplicate electronic record of notarial acts as a precaution in the event of loss of the original record.

- (d) When not in use, the electronic record shall be kept under the exclusive control of the electronic notary, and shall not be used by any other electronic notary nor surrendered to an employer upon termination of employment. The electronic record is at all times the exclusive property of the notary and no employer or vendor of e-notary services may retain control of a notary's electronic record for any reason. Exclusive control is achieved by ensuring that at least one method of authentication is required to verify the identity of the electronic notary requesting access to the electronic record.

#### **1.4 Lawful Inspection of the Electronic Record of Notarial Acts**

To fulfill the requirements of Virginia Code [§47.1-14 C](#), the electronic notary shall respond to a lawful, written request to inspect an electronic notary's record by producing a certified copy of the electronic record that includes an entry in the electronic notary's record documenting the certified copy production. Copy certification is an authorized notarial act pursuant to Virginia Code [§47.1-12](#).

### **Article 2: Official Electronic Signature and Seal Requirements**

#### **2.1 Official Electronic Signature and Seal**

- (a) In accordance with the requirements of Virginia Code [§47.1-14 E](#) and [§47.1-16 B and D](#), the means by which an electronic notary creates an official electronic notary signature and seal shall be:
  - (i) attributed or uniquely linked to the electronic notary;
  - (ii) capable of independent verification;
  - (iii) created using means that the notary can maintain under the electronic notary's exclusive control; and
  - (iv) linked to the electronic document to which it relates in such a manner that any subsequent change of the electronic document is detectable.
- (b) In fulfillment of the requirements of Virginia Code [§47.1-16](#), an electronic notary shall use a digital certificate to digitally sign electronic documents requiring notarization. The notary's official signature and seal consist of both the digital signature and an image or text on the electronic document that includes the following information:
  - (i) the electronic notary's name (as shown on the notary's electronic notary commission);
  - (ii) the electronic notary's registration or commission number;
  - (iii) the words "Electronic Notary Public";
  - (iv) the words "Commonwealth of Virginia"; and
  - (v) the electronic notary's commission expiration date.
- (c) The digital certificate, along with the image or text displaying the information in Section 2.1(b), must be affixed to the document in such a manner that any subsequent unauthorized modification or alteration of the information can be detected.
- (d) A digital certificate used by an electronic notary to digitally sign electronic documents shall conform to X.509 digital certificate standards and be issued and managed by a trusted root Certificate Authority.

- (e) The digital certificate used by an electronic notary to digitally sign electronic documents may not be used beyond the expiration date of the electronic notary's commission.

## **2.2 Protected Access to the Official Electronic Signature and Seal**

In fulfillment of Virginia Code §47.1-14 E, access to the means by which an electronic notary creates an official electronic signature and seal, including through an electronic notarization system, shall be protected by use of at least one factor of authentication such as a password, token, biometric, or other form of authentication.

## **2.3 Electronic Notarization Systems**

- (a) In fulfillment of Virginia Code §47.1-14 E, an electronic notarization system shall, by appropriate technical and procedural means, ensure that the signing key used for generating an official electronic signature and seal:
  - (i) is kept reasonably secured such that the signing key remains secret;
  - (ii) cannot, with reasonable assurance, be derived; and
  - (iii) can be reliably protected from misuse.
- (b) When keyed hardware tokens are used, the delivery shall be accomplished in a way that ensures that the correct token and activation data is provided to the electronic notary.

## **2.4 Non-Notarial Use Prohibition**

In accordance with Virginia Code §47.1-14 F, the electronic notary's registered electronic signature and seal shall be used together only for the purpose of performing lawful electronic notarial acts.

# **Article 3: Online Notarization**

## **3.1 Validity of Digital Certificate(s)**

Any electronic notarization system used by an electronic notary must ensure that the digital certificate used by an electronic notary has not expired or been revoked at the time the digital certificate is used to digitally sign an electronic document.

## **3.2 Identity Proofing by Digital Certificate or PIV Card**

In the event an electronic notary identifies the signer by means of the signer's digital certificate or PIV card, the electronic notarization system must ensure for the electronic notary that the digital certificate or PIV card used by the signer has not expired or been revoked at the time the notarization is performed.

## **3.3 Antecedent Identity Proofing Process**

The electronic notary shall only rely on an antecedent in-person proofing process that conforms to the guidelines of the Federal Bridge Certification Authority.

### **3.4 Standards for Secure Transmission for Electronic Video and Audio Communications**

The electronic notary shall take reasonable steps to ensure that the use of two-way live video and audio communication is secure from interception through unlawful means.

#### **Article 4: Notarized Electronic Document Requirements**

##### **4.1 Capability for Verifying the Electronic Notary's Signature and Seal**

In accordance with Virginia Code §47.1-16, an electronic notarization system must be capable of producing an electronically notarized document that allows relying parties to verify the following information regarding the electronic notary's official electronic signature and seal:

- (a) the authenticity and validity of the digital certificate used by the electronic notary to digitally sign the document at the time of the notarization may be reliably verified;
- (b) the electronic notary's identifying information, including the electronic notary's commissioned name, registration number, the words "Electronic Notary Public" and "Commonwealth of Virginia," and the electronic notary's commission expiration date are correctly displayed;
- (c) any changes or alterations to the notarized document subsequent to the electronic notary's affixation of a digital signature can be reliably detected.

##### **4.2 Capability for Testing Authenticity of the Electronic Notarial Certificate**

In accordance with Virginia Code §47.1-16 D, an electronic notarization system must enable the electronic notary to include an electronic notarial certificate that shall be attached to or logically associated with the electronic document in such a manner that removal or alteration of the electronic notarial certificate is detectable.