

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred House  
3 Bill No. 206 entitled “An act relating to regulating notaries public” respectfully  
4 reports that it has considered the same and recommends that the bill be  
5 amended by striking out all after the enacting clause and inserting in lieu  
6 thereof the following:

7 Sec. 1. 26 V.S.A. chapter 101 is added to read:

8 CHAPTER 101. NOTARIES PUBLIC

9 Subchapter 1. General Provisions

10 § 5201. SHORT TITLE

11 This chapter may be cited as the Uniform Law on Notarial Acts.

12 § 5202. UNIFORMITY OF APPLICATION AND CONSTRUCTION

13 In applying and construing this uniform act, consideration shall be given to  
14 the need to promote uniformity of the law with respect to its subject matter  
15 among states that enact it.

16 § 5203. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND  
17 NATIONAL COMMERCE ACT

18 This act modifies, limits, and supersedes the Electronic Signatures in Global  
19 and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify,  
20 limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize  
21 electronic delivery of any of the notices described in Section 103(b) of

1 that act, 15 U.S.C. § 7003(b).

2 § 5204. DEFINITIONS

3 As used in this chapter:

4 (1) “Acknowledgment” means a declaration by an individual before a  
5 notarial officer that the individual has signed a record for the purpose stated in  
6 the record and, if the record is signed in a representative capacity, that the  
7 individual signed the record with proper authority and signed it as the act of  
8 the individual or entity identified in the record.

9 (2) “Electronic” means relating to technology having electrical, digital,  
10 magnetic, wireless, optical, electromagnetic, or similar capabilities.

11 (3) “Electronic signature” means an electronic symbol, sound, or  
12 process attached to or logically associated with a record and executed or  
13 adopted by an individual with the intent to sign the record.

14 (4) “In a representative capacity” means acting as:

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

17 (B) a public officer, personal representative, guardian, or other  
18 representative, in the capacity stated in a record;

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

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

1           (5) “Notarial act” means an act, whether performed with respect to a  
2           tangible or electronic record, that a notarial officer may perform under the law  
3           of this State. The term includes taking an acknowledgment, administering an  
4           oath or affirmation, taking a verification on oath or affirmation, witnessing or  
5           attesting a signature, certifying or attesting a copy, and noting a protest of a  
6           negotiable instrument.

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

9           (7) “Notary public” means an individual commissioned to perform a  
10          notarial act by the Office.

11          (8) “Office” means the Office of the Secretary of State.

12          (9) “Official stamp” means a physical image affixed to or embossed on  
13          a tangible record or an electronic image attached to or logically associated with  
14          an electronic record.

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

19          (11) “Record” means information that is inscribed on a tangible medium  
20          or that is stored in an electronic or other medium and is retrievable in  
21          perceivable form.

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

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

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

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

7           (14) “Stamping device” means:

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

10                  (B) an electronic device or process capable of attaching to or  
11 logically associating with an electronic record an official stamp.

12           (15) “State” means a state of the United States, the District of Columbia,  
13 Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession  
14 subject to the jurisdiction of the United States.

15           (16) “Verification on oath or affirmation” means a declaration, made by  
16 an individual on oath or affirmation before a notarial officer, that a statement  
17 in a record is true.

1 Subchapter 2. Administration

2 § 5221. SECRETARY OF STATE'S OFFICE DUTIES

3 The Office shall:

4 (1) provide general information to applicants for commissioning as a  
5 notary public;

6 (2) administer fees as provided under ;

7 (3) explain appeal procedures to notaries public and applicants and  
8 explain complaint procedures to the public;

9 (4) receive applications for commissioning, review applications, refer  
10 applications to the Assistant Judges for commissioning, and renew  
11 commissions;

12 (5) refer all disciplinary matters to the Assistant Judge in the county of  
13 jurisdiction; and

14 (6) impose administrative penalties, issue warnings or reprimands, or  
15 revoke, suspend, reinstate, or condition commissions, as ordered by the  
16 Assistant Judges

17 § 5222. ASSISTANT JUDGE DUTIES

18 The Assistant Judges shall:

19 (1) receive applications for commissioning from the Secretary of State's  
20 office and commission applicants;

1           (2) receive disciplinary matters referred by the Secretary of State's  
2           office to the Assistant Judge in the county of jurisdiction; and

3           (3) impose administrative penalties, issue warnings or reprimands, or  
4           revoke, suspend, reinstate, or condition commissions after notice and an  
5           opportunity for a hearing.

6           § 5223. ADVISOR APPOINTEES

7           (a) The Secretary of State shall appoint two notaries public to serve as  
8           advisors in matters relating to notarial acts. The advisors shall be appointed  
9           for staggered five-year terms and serve at the pleasure of the Secretary. One of  
10           the initial appointments shall be for less than a five-year term.

11           (b) Each appointee shall have at least three years of experience as a notary  
12           public during the period immediately preceding appointment and shall be  
13           actively commissioned in Vermont and remain in good standing during  
14           incumbency.

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

19           § 5224. RULES

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

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

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

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

7           (4) prescribe the process of granting, renewing, conditioning, denying,  
8           suspending, or revoking or otherwise disciplining a notary public commission  
9           and assuring the trustworthiness of an individual holding a commission as  
10           notary public; and

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

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

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



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

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

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

9        (f) Attorneys licensed and in good standing in this State and law  
10       enforcement officers certified under 20 V.S.A. chapter 151 are exempt from  
11       the initial examination requirement.

12       § 5242. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,

13                SUSPEND, OR CONDITION COMMISSION OF NOTARY

14                PUBLIC

15        (a) The Office or an Assistant Judge may deny, refuse to renew, revoke,  
16        suspend, or impose a condition on a commission as notary public for any act or  
17        omission that demonstrates the individual lacks the honesty, integrity,  
18        competence, or reliability to act as a notary public, including:

19                (1) failure to comply with this chapter;

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

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

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

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

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

12           (7) violation by the notary public of a rule of the Office regarding a  
13 notary public;

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

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

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

1        § 5243. RENEWALS; CONTINUING EDUCATION

2            (a) Commissions shall be renewed every two years upon payment of the  
3        required fee, provided the person applying for renewal completes continuing  
4        education not to exceed more than two hours, approved by the Office, during  
5        the preceding two-year period.

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

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

11           (d) Attorneys licensed and in good standing in this State and law  
12       enforcement officers certified under 20 V.S.A. chapter 151 are exempt from the  
13       continuing education requirement.

14        § 5244. DATABASE OF NOTARIES PUBLIC

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

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

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

1        § 5245. PROHIBITIONS; OFFENSES

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

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

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

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

15           (e) A commission as a notary public shall not authorize an individual to:

16                (1) assist a person in drafting legal records, give legal advice, or  
17        otherwise practice law;

18                (2) act as an immigration consultant or an expert on immigration  
19        matters;

20                (3) represent a person in a judicial or administrative proceeding relating  
21        to immigration to the United States, U.S. citizenship, or related matters; or

1           (4) receive compensation for performing any of the activities listed in  
2 this subsection.

3           (f) A notary public, other than an attorney licensed to practice law in this  
4 State, shall not use the term “notario” or “notario publico.”

5           (g)(1) A notary public, other than an attorney licensed to practice law in  
6 this State, shall not advertise or represent that the notary public may assist  
7 persons in drafting legal records, give legal advice, or otherwise practice law.

8           (2) If a notary public who is not an attorney licensed to practice law in  
9 this State in any manner advertises or represents that the notary public offers  
10 notarial services, whether orally or in a record, including broadcast media,  
11 print media, and the Internet, the notary public shall include the following  
12 statement, or an alternate statement authorized or required by Office, in the  
13 advertisement or representation, prominently and in each language used in the  
14 advertisement or representation: “I am not an attorney licensed to practice law  
15 in this State. I am not allowed to draft legal records, give advice on legal  
16 matters, including immigration, or charge a fee for those activities.” If the  
17 form of advertisement or representation is not broadcast media, print media, or  
18 the Internet and does not permit inclusion of the statement required by this  
19 subsection because of size, it shall be displayed prominently or provided at the  
20 place of performance of the notarial act before the notarial act is performed.



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

4        § 5262. AUTHORIZED NOTARIAL ACTS

5        (a) A notarial officer may perform a notarial act authorized by this chapter  
6        or otherwise by law of this State.

7        (b) A notarial officer shall not perform a notarial act with respect to a  
8        record to which the officer or the officer's spouse is a party, or in which either  
9        of them has a direct beneficial interest. A notarial act performed in violation of  
10       this subsection is voidable.

11       § 5263. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

12       (a) Acknowledgments. A notarial officer who takes an acknowledgment of  
13       a record shall determine, from personal knowledge or satisfactory evidence of  
14       the identity of the individual, that the individual appearing before the officer  
15       and making the acknowledgment has the identity claimed and that the  
16       signature on the record is the signature of the individual.

17       (b) Verifications. A notarial officer who takes a verification of a statement  
18       on oath or affirmation shall determine, from personal knowledge or  
19       satisfactory evidence of the identity of the individual, that the individual  
20       appearing before the officer and making the verification has the identity

1 claimed and that the signature on the statement verified is the signature of the  
2 individual.

3 (c) Signatures. A notarial officer who witnesses or attests to a signature  
4 shall determine, from personal knowledge or satisfactory evidence of the  
5 identity of the individual, that the individual appearing before the officer and  
6 signing the record has the identity claimed.

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

10 (e) Protests. A notarial officer who makes or notes a protest of a negotiable  
11 instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b)  
12 (protest; certificate of dishonor).

13 § 5264. PERSONAL APPEARANCE REQUIRED

14 If a notarial act relates to a statement made in or a signature executed on a  
15 record, the individual making the statement or executing the signature shall  
16 appear personally before the notarial officer.

17 § 5265. IDENTIFICATION OF INDIVIDUAL

18 (a) Personal knowledge. A notarial officer has personal knowledge of the  
19 identity of an individual appearing before the officer if the individual is  
20 personally known to the officer through dealings sufficient to provide  
21 reasonable certainty that the individual has the identity claimed.

1        (b) Satisfactory evidence. A notarial officer has satisfactory evidence of  
2        the identity of an individual appearing before the officer if the officer can  
3        identify the individual:

4                (1) by means of:

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

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

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

17        (c) Additional information. A notarial officer may require an individual to  
18        provide additional information or identification credentials necessary to assure  
19        the officer of the identity of the individual.

1     § 5266. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

2             If an individual is physically unable to sign a record, the individual may  
3     direct an individual other than the notarial officer to sign the individual’s name  
4     on the record. The notarial officer shall insert “Signature affixed by (name of  
5     other individual) at the direction of (name of individual)” or words of similar  
6     import.

7     § 5267. CERTIFICATE OF NOTARIAL ACT

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

9                 (1) be executed contemporaneously with the performance of the  
10     notarial act;

11                (2) be signed and dated by the notarial officer and be signed in the same  
12     manner as on file with the Office;

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

14                (4) contain the title of office of the notarial officer; and

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

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

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

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

3             (1) is in a short form as set forth in section 5068 of this chapter;

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

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

7             (4) sets forth the actions of the notarial officer and the actions are  
8       sufficient to meet the requirements of the notarial act as provided in sections  
9       5262–5264 of this chapter or a law of this State other than this chapter.

10       (d) By executing a certificate of a notarial act, a notarial officer certifies  
11       that the officer has complied with the requirements and made the  
12       determinations specified in sections 5263–5265 of this chapter.

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

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

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

1           (3) If the Office has established standards by rule pursuant to section  
2           5224 of this chapter for attaching, affixing, or logically associating the  
3           certificate, the process shall conform to those standards.

4           § 5268. SHORT FORM CERTIFICATES

5           The following short form certificates of notarial acts shall be sufficient for  
6           the purposes indicated, if completed with the information required by  
7           subsections 5267(a) and (b) of this chapter:

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

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

10          This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

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

12          Signature of notarial officer

13          Stamp [ \_\_\_\_\_ ]

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

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

16          State of \_\_\_\_\_ [County] of \_\_\_\_\_

17          This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

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

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

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

1 whom record was executed).

2 Signature of notarial officer

3 Stamp [\_\_\_\_\_]

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

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

6 State of \_\_\_\_\_ [County] of \_\_\_\_\_

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

8 by \_\_\_\_\_

9 Date \_\_\_\_\_

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

11 Signature of notarial officer \_\_\_\_\_

12 Stamp [\_\_\_\_\_]

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

14 (4) For witnessing or attesting a signature:

15 State of \_\_\_\_\_ [County] of \_\_\_\_\_

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

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

18 Signature of notarial officer

19 Stamp [\_\_\_\_\_]

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

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

1 State of \_\_\_\_\_ [County] of \_\_\_\_\_

2 I certify that this is a true and correct copy of a record in the possession

3 of \_\_\_\_\_.

4 Dated \_\_\_\_\_

5 Signature of notarial officer

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

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

8 § 5269. OFFICIAL STAMP

9 The official stamp of a notary public shall:

10 (1) include the notary public's name, jurisdiction, and other information  
11 required by the Office; and

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

14 § 5270. STAMPING DEVICE

15 (a) A notary public is responsible for the security of the notary public's  
16 stamping device and shall not allow another individual to use the device to  
17 perform a notarial act.

18 (b) If a notary public's stamping device is lost or stolen, the notary public  
19 or the notary public's personal representative or guardian shall notify promptly  
20 the Office on discovering that the device is lost or stolen.

1     § 5271. JOURNAL

2           (a) A notary public shall maintain a journal in which the notary public  
3     chronicles all notarial acts that the notary public performs. The notary public  
4     shall retain the journal for 10 years after the performance of the last notarial act  
5     chronicled in the journal.

6           (b) A journal may be created on a tangible medium or in an electronic  
7     format. A notary public shall maintain only one journal at a time to chronicle  
8     all notarial acts, whether those notarial acts are performed regarding tangible  
9     or electronic records.

10           (1) If the journal is maintained on a tangible medium, it shall be a  
11     permanent, bound register with numbered pages.

12           (2) If the journal is maintained in an electronic format, it shall be in a  
13     permanent, tamper-evident electronic format complying with the rules of  
14     the Office.

15           (c) An entry in a journal shall be made contemporaneously with the  
16     performance of the notarial act and contain the following information:

17           (1) the date and time of the notarial act;

18           (2) a description of the record, if any, and type of notarial act;

19           (3) the full name and address of each individual for whom the notarial  
20     act is performed;

1           (4) if identity of the individual is based on personal knowledge, a  
2           statement to that effect;

3           (5) if identity of the individual is based on satisfactory evidence, a brief  
4           description of the method of identification and the identification credential  
5           presented, if any, including the date of issuance and expiration of any  
6           identification credential; and

7           (6) the fee, if any, charged by the notary public.

8           (d) If a notary public's journal is lost or stolen, the notary public promptly  
9           shall notify the Office on discovering that the journal is lost or stolen.

10          (e) On resignation from, or the revocation or suspension of, a notary  
11          public's commission, the notary public shall retain the notary public's journal  
12          in accordance with subsection (a) of this section and inform the Office where  
13          the journal is located.

14          (f) Instead of retaining a journal as provided in subsection (e) of this  
15          section, a current or former notary public may transmit the journal to the  
16          Office or a repository approved by the Office.

17          (g) On the death or adjudication of incompetency of a current or former  
18          notary public, the notary public's personal representative or guardian or any  
19          other person knowingly in possession of the journal shall transmit it to the  
20          Office or a repository approved by the Office.

1        § 5272. STAMPING AND JOURNALING EXEMPTION

2            Law enforcement officers certified under 20 V.S.A. chapter 151 and their  
3        administrative staff, and victim advocates employed by the State’s Attorneys  
4        for the purpose of notarizing documents offered in the Superior Court Criminal  
5        Division and Family Division, shall not be subject to the journaling and  
6        stamping requirements of this chapter.

7        § 5273. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL  
8            ACT ON ELECTRONIC RECORD; SELECTION OF  
9            TECHNOLOGY.

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

14           (b) Before a notary public performs the notary public’s initial notarial act  
15        with respect to an electronic record, the notary public shall notify the Office  
16        that the notary public will be performing notarial acts with respect to electronic  
17        records and identify the technology the notary public intends to use. If the  
18        Office has established standards by rule for approval of technology pursuant to  
19        section 5223 of this chapter, the technology shall conform to the standards. If  
20        the technology conforms to the standards, the Office shall approve the use of  
21        the technology.

1        § 5274. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

2            (a) A notarial officer shall refuse to perform a notarial act if the officer is  
3        not satisfied that:

4            (1) the individual executing the record is competent or has the capacity  
5        to execute the record; or

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

7            (b) A notarial officer may refuse to perform a notarial act unless refusal is  
8        prohibited by law other than this chapter.

9        § 5275. VALIDITY OF NOTARIAL ACTS

10           (a) Except as otherwise provided in subsection 5274(b) of this chapter, the  
11        failure of a notarial officer to perform a duty or meet a requirement specified in  
12        this chapter shall not invalidate a notarial act performed by the notarial officer.

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

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

1        § 5276. NOTARIAL ACT IN ANOTHER STATE

2            (a) A notarial act performed in another state has the same effect under the  
3        law of this State as if performed by a notarial officer of this State, if the act  
4        performed in that state is performed by:

5            (1) a notary public of that state;

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

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

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

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

15        § 5277. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY

16            RECOGNIZED INDIAN TRIBE

17            (a) A notarial act performed under the authority and in the jurisdiction of a  
18        federally recognized Indian tribe has the same effect as if performed by a  
19        notarial officer of this State, if the act performed in the jurisdiction of the tribe  
20        is performed by:

21            (1) a notary public of the tribe;

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

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

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

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

11 § 5278. NOTARIAL ACT UNDER FEDERAL AUTHORITY

12           (a) A notarial act performed under federal law has the same effect under the  
13 law of this State as if performed by a notarial officer of this State, if the act  
14 performed under federal law is performed by:

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

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

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

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

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

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

9           § 5279. FOREIGN NOTARIAL ACT

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

12           (b) If a notarial act is performed under authority and in the jurisdiction of a  
13           foreign state or constituent unit of the foreign state or is performed under the  
14           authority of a multinational or international governmental organization, the act  
15           has the same effect under the law of this State as if performed by a notarial  
16           officer of this State.

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

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

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

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

13       § 5280. FEES

14       For the issuance of a certificate of appointment as a notary public, the  
15       Secretary of State shall collect a fee of \$30.00, of which \$9.00 shall accrue to  
16       the State and \$9.00 shall accrue to the county and \$12.00 shall accrue to the  
17       Secretary of State.

18       Sec. 2. REPEAL

19       The following are repealed:

20       (1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);

21       (2) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge

1 or fee);

2 (3) 32 V.S.A. § 1436 (fee for certification of appointment as notary  
3 public); and

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

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

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

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

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

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

15 Sec. 4. SAVINGS CLAUSE

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

18 Sec. 5. EFFECTIVE DATE

19 This act shall take effect on July 1, 2017.

20

21

1 (Committee vote: \_\_\_\_\_)

2

\_\_\_\_\_

3

Representative \_\_\_\_\_

4

FOR THE COMMITTEE