

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.

18 § 5205. EXEMPTIONS

19 (a) Generally.

20 (1) The persons set forth in subdivision (2) of this subsection shall be
21 exempt from the following requirements of this chapter:

1 (A) the examination set forth in § 5241(b);

2 (B) continuing education set forth in § 5243;

3 (C) the penalties set forth in § 5242;

4 (D) the certificate and official stamp described in § 5267, if acting
5 within the scope of his or her official duties; and

6 (E) maintaining the journal described in § 5271, if acting within the
7 scope of his or her official duties.

8 (2)(A) Notaries public employed by the Judiciary, including judges,
9 Superior Court clerks, court operations managers, Probate registers, case
10 managers, docket clerks, and after-hours relief from abuse contract employees.

11 (B) Notaries public employed as law enforcement officers certified
12 under 20 V.S.A. chapter 151, who are noncertified constables, or who are
13 employed by Vermont law enforcement agencies; the Departments of Public
14 Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for
15 Children and Families; the Office of the Defender General; the Attorney
16 General; or a State’s Attorney or Sheriff.

17 (b) Investigations and proceedings. Subchapter 4 (notarial acts) of this
18 chapter shall not apply to:

19 (1) any policy, form, rule, or law relating to State, local, or municipal
20 investigations or investigative proceedings; or

1 (2) court or administrative proceedings regarding the enforcement of an
2 ordinance, law, or administrative rule, or appeals therefrom, including any
3 proceeding or matter that is:

4 (A) governed by the Vermont Rules of Criminal, Family, Probate,
5 Civil, Small Claims, or Appellate Procedure; or

6 (B) subject to the jurisdiction of the Vermont Judiciary.

7 (c) Attorneys. Attorneys licensed and in good standing in this State are
8 exempt from the following requirements of this chapter:

9 (1) the examination requirement set forth in § 5241(b); and

10 (2) the continuing education requirement set forth in § 5243.

11 (d) Fees. The following persons are exempt from the fee required under
12 section 5225 of this chapter:

13 (1) a judge, clerk, or other court staff, as designated by the Court
14 Administrator;

15 (2) State's Attorneys and their deputies;

16 (3) justices of the peace and town clerks and their assistants; and

17 (4) State Police officers, municipal police officers, fish and game
18 wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of
19 the Department of Corrections, and employees of the Department for Children
20 and Families.

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 section 5225 of this chapter;

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 for commissioning to the Assistant Judges in the county of
11 jurisdiction, and renew commissions;

12 (5) refer all disciplinary matters to the Assistant Judges 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'S DUTIES

18 The Assistant Judges in a county of jurisdiction 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; 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 and the Assistant
21 Judges, may adopt rules 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 (4) not be disqualified to receive a commission under section 5242 of
2 this chapter; and

3 (5) pass an examination approved by the Office based on the statutes,
4 rules, and ethics relevant to notarial acts.

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

7 (d) Upon compliance with this section, the Office, with the approval of the
8 Assistant Judges in the county of jurisdiction, shall issue a commission as a
9 notary public to an applicant for a term of two years.

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

14 § 5242. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE,

15 SUSPEND, OR CONDITION COMMISSION OF NOTARY

16 PUBLIC

17 (a) The Office, with the approval of the Assistant Judges in the county of
18 jurisdiction, may deny, refuse to renew, revoke, suspend, or impose a condition
19 on a commission as notary public for any act or omission that demonstrates the
20 individual lacks the honesty, integrity, competence, or reliability to act as a
21 notary public, including:

1 (1) failure to comply with this chapter;

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

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

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

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

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

15 (7) violation by the notary public of a rule of the Office regarding a
16 notary public;

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

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

20 (b) If the Office, with the approval of the Assistant Judges in the county of
21 jurisdiction, denies, refuses to renew, revokes, suspends, or imposes conditions

1 on a commission as a notary public, the applicant or notary public is entitled to
2 timely notice and hearing in accordance with 3 V.S.A. chapter 25.

3 § 5243. RENEWALS; CONTINUING EDUCATION

4 (a) Commissions shall be renewed every two years upon payment of the fee
5 set forth in section 5225 of this chapter, provided the person applying for
6 renewal completes continuing education approved by the Office, which shall
7 not be required to exceed more than two hours, during the preceding two-year
8 period.

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

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

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 and making the acknowledgment has the identity claimed and that the
2 signature on the record is the signature of the individual.

3 (b) Verifications. A notarial officer who takes a verification of a statement
4 on oath or affirmation shall determine, from personal knowledge or
5 satisfactory evidence of the identity of the individual, that the individual
6 appearing before the officer and making the verification has the identity
7 claimed and that the signature on the statement verified is the signature of the
8 individual.

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

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

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

1 § 5264. PERSONAL APPEARANCE REQUIRED

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

5 § 5265. IDENTIFICATION OF INDIVIDUAL

6 (a) Personal knowledge. A notarial officer has personal knowledge of the
7 identity of an individual appearing before the officer if the individual is
8 personally known to the officer through dealings sufficient to provide
9 reasonable certainty that the individual has the identity claimed.

10 (b) Satisfactory evidence. A notarial officer has satisfactory evidence of
11 the identity of an individual appearing before the officer if the officer can
12 identify the individual:

13 (1) by means of:

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

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

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

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

9 § 5266. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

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

15 § 5267. CERTIFICATE OF NOTARIAL ACT

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

17 (1) be executed contemporaneously with the performance of the
18 notarial act;

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

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

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

2 (5) indicate the date of expiration of the officer's commission.

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

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

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

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

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

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

15 (4) sets forth the actions of the notarial officer and the actions are
16 sufficient to meet the requirements of the notarial act as provided in sections
17 5262–5264 of this chapter or a law of this State other than this chapter.

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

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

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

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

8 (3) If the Office has established standards by rule pursuant to section
9 5224 of this chapter for attaching, affixing, or logically associating the
10 certificate, the process shall conform to those standards.

11 § 5268. SHORT FORM CERTIFICATES

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

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

16 State of _____ [County] of _____

17 This record was acknowledged before me on _____ by _____

18 Date _____ Name(s) of individual(s) _____

19 Signature of notarial officer _____

20 Stamp [_____]

21 Title of office _____ [My commission expires: _____]

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

2 State of _____ [County] of _____

3 This record was acknowledged before me on _____ by _____

4 Date _____ Name(s) of individual(s) _____

5 as _____ (type of authority, such as officer or

6 trustee) of _____ (name of party on behalf of

7 whom record was executed).

8 Signature of notarial officer _____

9 Stamp [_____]

10 Title of office _____ [My commission expires: _____]

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

12 State of _____ [County] of _____

13 Signed and sworn to (or affirmed) before me on _____

14 by _____

15 Date _____

16 Name(s) of individual(s) making statement _____

17 Signature of notarial officer _____

18 Stamp [_____]

19 Title of office _____ [My commission expires: _____]

20 (4) For witnessing or attesting a signature:

21 State of _____ [County] of _____

1 Signed [or attested] before me on _____ by _____

2 Date _____ Name(s) of individual(s) _____

3 Signature of notarial officer

4 Stamp [_____]

5 Title of office _____ [My commission expires: _____]

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

7 State of _____ [County] of _____

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

9 of _____.

10 Dated _____

11 Signature of notarial officer

12 Stamp [_____]

13 Title of office _____ [My commission expires: _____]

14 § 5269. OFFICIAL STAMP

15 The official stamp of a notary public shall:

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

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

1 § 5270. STAMPING DEVICE

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

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

8 § 5271. JOURNAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (g) On the death or adjudication of incompetency of a current or former
5 notary public, the notary public’s personal representative or guardian or any
6 other person knowingly in possession of the journal shall transmit it to the
7 Office or a repository approved by the Office.

8 § 5272. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL
9 ACT ON ELECTRONIC RECORD; SELECTION OF
10 TECHNOLOGY.

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

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

1 the technology conforms to the standards, the Office shall approve the use of
2 the technology.

3 § 5273. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

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

6 (1) the individual executing the record is competent or has the capacity
7 to execute the record; or

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

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

11 § 5274. VALIDITY OF NOTARIAL ACTS

12 (a) Except as otherwise provided in subsection 5273(b) of this chapter, the
13 failure of a notarial officer to perform a duty or meet a requirement specified in
14 this chapter shall not invalidate a notarial act performed by the notarial officer.

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

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

1 § 5275. 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 § 5276. 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 § 5277. 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 § 5278. 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 Sec. 2. REPEAL

14 The following are repealed:

15 (1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);

16 (2) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge
17 or fee);

18 (3) 32 V.S.A. § 1436 (fee for certification of appointment as notary
19 public); and

20 (4) 32 V.S.A. § 1759 (notaries public fees).

