A HANDBOOK

FOR VIRGINIA NOTARIES PUBLIC

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INTRODUCTION

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

THE NOTARY'S FUNCTION

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

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

Notaries must constantly be aware that every notarial act affects the legal rights of others. Carelessness or negligence by the notary may injure these rights**.**

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

TYPES OF NOTARIES IN VIRGINIA

The Code of Virginia allows for two different types of notary commissions to be issued in the Commonwealth:

1. Traditional notary public commissions
2. Electronic notary public commissions

The difference between the two types of notary public commissions are the tools that are used to perform the notarial act and, in some cases, the criteria for establishing the identity of the person seeking a notarization.

To apply for an electronic notary public commission, the applicant must first be commissioned as a **TRADITIONAL** Virginia notary public.

TRADITIONAL NOTARY PUBLIC

A traditional notarization is an official act performed by a traditional notary public using their seal and physical signature on documents.

QUALIFICATIONS FOR APPOINTMENT

(§ 47.1-3, § 47.1-4)

Under the laws of Virginia, the Governor may appoint an unlimited number of notaries public. A notary must be:

1. At least 18 years old.
2. A legal resident (Citizen/Permanent Resident) of the United States.
3. Able to read and write the English language.
4. A resident of Virginia or regularly employed in the state and perform notary services in connection with their employment (A non-resident notary who ceases to be regularly employed in Virginia must surrender their commission).
5. No person who has ever been convicted of a felony under the laws of the United States, the Commonwealth of Virginia, or the laws of any other state, qualifies to be appointed and commissioned as a notary public unless such person has had been pardoned for such felony, has had the conviction vacated by the granting of a writ of actual innocence, or has had their civil rights restored.

OBTAINING A COMMISSION

(§ 47.1-5, § 47.1-5.1, § 47.1-8, § 47.1-9)

Applications for appointment as a notary public are available from most Circuit Court clerk's offices, on the Secretary of the Commonwealth's website, and from the Secretary of the Commonwealth's office.

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

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

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

[1] This fee is waived for an application filed as clerk or deputy clerk of a circuit or district court.

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

A notary public applying for recommission is not required to go to the Circuit Court to take the oath of office, provided such applicant is in good standing as a notary public, is not subject to any ongoing investigation or proceeding, and has never been removed from office.

TERMS OF OFFICE

(§ 47.1-21, § 47.1-5.1, § 47.1-29)

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

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

SEALS/STAMPS

(§ 47.1-16, § 47.1. 1-8.)

As a best practice a traditional notary seal should contain: The name of the notary exactly as it appears on the notary's commission, the words "Notary Public" and "Commonwealth of Virginia.", the commission expiration date, and the notary's registration number.

To obtain a notary seal, a notary public shall present proof of his commission to a vendor or manufacturer for purposes of obtaining a seal to affix on paper documents as required by the provisions of this title. The notary public and vendor or manufacturer shall retain such proof of commission for no less than five years.

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

Care should be taken not to obscure the signatures or other parts of the document when applying the seal/stamp to the document.

Upon every writing that 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. Any information included on the notary's seal/stamp must be accurate. The notary cannot strike through or white-out and area to make a change.

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

ALLOWABLE FEES

(§ 47.1-19, § 47.1-20)

A notary may charge up to $10.00 for each notarial act performed.

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

An employer may require an employee to perform notarial acts in the course employment without charging the fee allowed by law. However, if a fee is charged, an employer ***may*** require the employee/notary to surrender the fee to the employer, provided that the notarial act for which the fee is charged is performed during the course of such employee's employment.

JOURNAL

(§ 47.1-14)

A notary shall keep, maintain, protect, and provide for lawful inspection a record of notarial acts that contains at least the following for each notarial act performed:

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

This journal must be maintained for a period of at least five (5) years from the date of the transaction.

JURISDICTION

(§ 47.1-13)

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

A notary may likewise perform notarial acts outside the Commonwealth, where such notarial acts are performed in accordance with Title 47.1, Chp. 3, of the *Code of Virginia*.

ELECTRONIC NOTARY PUBLIC

An electronic notarization is an official act performed by an electronic notary public using their electronic seal and electronic signature on electronic documents.

QUALIFICATIONS FOR OBTAINING A COMMISSION

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

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

TERMS OF OFFICE

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

SEALS AND SIGNATURES

The electronic notary seal should contain:

1. The name of the notary exactly as it appears on the notary's commission.
2. The words "Electronic Notary Public" and "Commonwealth of Virginia."
3. The commission expiration date.
4. The notary's registration number.

The physical appearance of the seal replicates the appearance of an inked seal on paper and shall appear on any visual or printed representation of the electronic notary certificate. The electronic notary seal is attached or logically associated with the document, linking the data in such a manner that any subsequent alterations to the underlying document or electronic notary certificate are observable through visual examination. The seal must be retained under the electronic notary's sole control.

An electronic notary public commissioned in the Commonwealth must include the county or city in Virginia in which they are physically at the time of the notarial act, on the electronic notarial certificate. This requirement only applies to documents notarized by Virginia notaries, not electronically notarized documents from notaries in other states.

ALLOWABLE FEES

(§ 47.1-19, § 47.1-20)

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

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

An employer may require an employee to perform notarial acts in the course employment without charging the fee allowed by law. However, if a fee is charged, an employer ***may*** require the employee/notary to surrender the fee to the employer, provided that the notarial act for which the fee is charged is performed during the course of such employee's employment.

JOURNAL

(§ 47.1-14)

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

1. Date and time of day of the notarial act.
2. Type of notarial act.
3. Type, title, or a description of the document or proceeding.
4. Printed name and address of each person seeking an electronic notarization.
5. Type of identification used to establish identity of each person seeking electronic notarization.
6. Fee, if any, charged for the electronic notarial act.

This journal must be maintained for a period of at least five (5) years from the date of the transaction.

JURISDICTION

(§ 47.1-13, § 47.1-13.1)

All electronic notarial acts performed by Virginia electronic notaries are deemed to have been performed within the Commonwealth of Virginia and are governed by Virginia law. This reflects the reality that electronic documents may not be physically stored in Virginia. In fact, the network-based digital economy has no geographic boundaries and is, therefore, borderless. Thus, regardless of the physical location of the electronic document, Virginia law governs the electronic notarial act. A Virginia Notary may likewise perform notarial acts outside the Commonwealth, where such notarial acts are performed in accordance with Title 47.1, Chapter 3 of the *Code of Virgina*.

Virginia electronic notaries also have limited extraterritorial powers. Please note the remote notarial act is not extraterritorial because it is deemed to have been performed within the Commonwealth of Virginia at the place where the electronic notary is located.

REMOTE OR ONLINE ELECTRONIC NOTARIZATION

Remote electronic notarization incorporates strict federal standards for determining the identity of the signer and requires the notary to keep a record of the video conference for each notarial act, which is not required in paper notarizations. Accordingly, protections against fraud with this method are much stronger than those afforded by the current paper process. It is important to remember that the Commonwealth of Virginia already uses video conferencing in courts of law, the standards for which this law expressly cross-references**.**

SATISFACTORY EVIDENCE OF THE SIGNER'S IDENTITY

(§ 47.1-2)

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

1. Personal knowledge – if the notary knows the signer, that will suffice.
2. Reliance on prior in-person identity proofing by a third party such as an employer, a law firm, or a bank. Otherwise known as antecedent proofing, this security standard relies upon a prior trust relationship having been created between the signer and a third party.
3. The signer has a digital certificate that is authenticated either by (i) biometrics or (ii) a Personal Identity Verification (PIV) or PIV-I card issued in conformance with strict government standards from the National Institute of Standards and Technology.

A knowledge-based authentication (KBA) is an explicitly allowed method of identity proofing for remote online notarization (RON). KBA questions are those questions generated from public records, including credit history (Which of the following cars did you own? Which address is associated with you? Etc.). The use of these questions is commonly used for RON for signer identification by Virginia's notaries. This change has no further effects on what identity proofing methods are allowed. Other compliant methods stated above are still permitted.

PERFORMANCE REQUIREMENTS

(§ 47.1-2, § 47.1-14)

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

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

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

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

THE NOTARY'S POWERS

(§ 47.1-12)

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

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

A notary should keep the following things in mind:

- Virginia notaries may perform their duties outside of the Commonwealth if the document is for use in the Commonwealth.
- In necessary cases, a child's signature may be notarized. The required proof of the identity of a child is the same as an adult.
- Virginia notaries may notarize powers of attorney and wills.
- Virginia notaries are not authorized to certify true copies of birth, death, or marriage certificates. Only the Division of Vital Records/Statistics may perform such a certification.
- Virginia notaries are not authorized to certify true copies of court issued documents.
- Virginia notaries are not authorized to perform marriage ceremonies.
- A Virginia notary is not authorized to notarize his/her own signature.

**Notary directly accessing public or vital records to confirm or validate a signer's identity credentials or to confirm facts about an individual's identity or authorization. A notary may also access public records to confirm facts about such matters as corporate status, date of birth, or date of marriage.*

THE NOTARY'S GREATEST RESPONSIBILITY

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

It is the notary's responsibility to be familiar with and understand everything contained in "The Handbook for Virginia Notaries Public" throughout their term as a notary.

Before performing a notarial act, a notary must be certain of the identity of each person whose signature will be notarized. A notary is required to exercise a high degree of care in determining the identity of any person whose identity is the subject of a notarial act.

Unless such person is known by the notary, identity shall be ascertained by satisfactory evidence of identity. This can be done via the oath of one or more credible witnesses or examination of one or more of the following nine unexpired documents:

1. A United States passport
2. A United States passport card
3. A certificate of United States citizenship
4. A certificate of naturalization
5. A foreign passport
6. A United States Permanent Resident Card (Green Card) with photograph
7. A state issued driver's license
8. A state issued identification card
9. A United States military identification card

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

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

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

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

OATH FOR CREDIBLE IDENTIFYING WITNESS

The National Notary Association recommends that the form of the oath (or affirmation) administered to a credible identifying witness be as follows:

"Do you solemnly swear that you know the signer truly holds the identity he (or she) claims, so help you God?"

REQUIRED INFORMATION WHEN NOTARIZING A DOCUMENT

(§ 47.1-2, § 47.1-15, § 47.1-16)

Every notarial certificate must contain the below seven items:

1. Notarial statement
2. The date of the notarial act
3. The county or city and state in which the notarial act was performed

4. The expiration date of the notary's commission
5. Notary's signature
6. Notary's registration number
7. Photographically reproducible notary seal/stamp

If the notarial act was done electronically, the notarial certificate must contain the above seven items as well as:

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

Each of the following accurate items is required by law:

1. A notarial statement must identify the specific notarial act that has been performed (acknowledgment, true copy of an original document, etc.).
2. The date and location of the notarial act must be clearly indicated.
   **Usually, the language of a notarial act contains a place for this information. When it does not, the best place to put the date is immediately above where the notary will sign. Both the state and the city/county in which the act was performed must appear. In most cases, this information appears above the language of the notarial act.*
3. The expiration date of notary's commission.
   **Generally, appears after the signature of the notary in this form: "My commission expires, _____, 20 _____."*
4. A notarial act requires the original signature of the notary. Signature stamps and other facsimiles or photocopies do not satisfy this requirement.
5. The notary's registration number. If a form or certificate lacks space for this information, the notary must provide it somewhere on the form or certificate.
6. A stamp or seal. In the case of an electronic notary, the attached seal must be capable of independent verification.

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

NOTARIZATION OF INCOMPLETE DOCUMENTS

A notary public may not notarize any document that is incomplete. If presented with a document for notarization, which the notary public knows from his or her experience to be incomplete or is without doubt on its face incomplete, the notary public must refuse to notarize the document.

CORRECTING A NOTARIAL ACT

(§ 47.1-20.1)

There are no provisions in the law that allow the correction of a completed notary act. As a best practice, this office recommends that the notary public perform a new notarization if he or she discovers an error in a notary act after completing the act.

A notarial act is still valid if a notary fails to perform a duty or requirement when providing a notarization.

VIRGINIA ACKNOWLEDGEMENTS

The Uniform Recognition of an Acknowledgement Act outlines the format a notary should use for various acknowledgements. Notarial acts performed on a document originating from another state or country cannot substitute for the Virginia notarial acts established in the Code of Virginia or the notary handbook.

A) <u>Certificate of Acknowledgment:</u>

City/County of _____ Commonwealth of Virginia

The foregoing instrument was acknowledged before me this ____ day of _____, 20_____

by_____
(Name of person signing acknowledgment) ***Notary Seal***

_____
Notary Public's signature

Notary registration number: _____

My commission expires: _____

B) <u>Certified Copy of an Original:</u>

City/County of _____ Commonwealth of Virginia

I certify this to be a complete, full, true and exact reproduction of the original document.

Certified this _____ day of _____, 20 _____

_____ ***Notary Seal***
Notary Public's signature

Notary registration number: _____

My commission expires: _____

Note: When attaching the notarial act to a separate page, a notary must mention the name of the document attached.

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

City/County of _____ Commonwealth of Virginia

The foregoing instrument was subscribed and sworn this before me this ____ day of _____, 20_____ by_____.
(Name of person seeking jurat) ***Notary Seal***

_____
Notary Public's signature

Notary registration number: _____

My commission expires: _____

D) Electronic Notarization

City/County of_____ Commonwealth of Virginia

[Notary Public's physical location]

The foregoing instrument was acknowledged before me this ____ day of _____, 20_____

by_____.
(Name of person seeking acknowledgement) **E*Notary Seal***

_____
Notary Public's signature

Notary registration number: _____

My commission expires: _____

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

CHANGE OF NAME

(§ 47.1-17)

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

"I was commissioned a notary public as Mary Jane Smith."

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

CHANGE OF CONTACT INFORMATION

(§ 47.1-18)

If a notary has any changes to their contact information (i.e. address, phone number, business address, business phone number, etc.) during their commission, you must log in to your online notary account and update your information promptly. Please note that only contact information may be updated online.

REPORTING LOST OR STOLEN NOTARY INFORMATION

(§ 47.1-14)

A notary must immediately report, in writing or via email, any lost or stolen electronic notary items to the Secretary of the Commonwealth's office. If the items are believed to have been stolen, the electronic notary must also inform a law enforcement agency.

RESIGNATION

(§ 47.1-22)

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

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

CONFLICTS OF INTEREST

(§ 47.1-30)

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

A notary may not perform any notarial act with respect to any document if the notary:

1. Is a party to the document.
2. Their spouse is a party to the document.
3. A signatory or is named in the document.
4. Them or their spouse has a "direct beneficial interest" in the document.

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.

Notaries should not notarize documents when:

1. There is any possibility that the contents of the document will benefit them or their spouse.
2. They are named beneficiaries of a will in which they've been asked to notarize.
3. They are a paid employee of a political campaign, including a referendum or petition effort, and a notarial act is needed regarding petitions for that campaign.

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

BONDS AND INSURANCE

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

VIOLATIONS OF NOTARY LAW

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

Official Misconduct

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

Removal from Office

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

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

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

If a notary fails to properly notarize a document, the Secretary of the Commonwealth may send a letter warning that notary public of the notary's misconduct.
If the Secretary of the Commonwealth has reason to believe that a notary is guilty of official misconduct, an evidentiary hearing will be held under the provisions of the Administrative Process Act.

After a hearing is conducted by the Secretary, a notary may be suspended from notarial duties. If a notary is found guilty of official misconduct or is otherwise subject to removal, the Secretary may discipline the notary by reprimand, suspension from practice, or removal from office. A court may review the findings of the hearing by the Secretary of the Commonwealth if an appeal is properly made pursuant to the Administrative Process Act.

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

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

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

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

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

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

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

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

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

Liability of the Notary's Employer

The employer of a notary may be civilly or criminally liable for certain acts. The employer may be liable for damages caused by the notary's official misconduct if:

1. The misconduct was performed as part of the notary's employment.
2. The employer knew about the misconduct or should have known about it.

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

Impersonation of a Notary

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

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

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

FAQs

What is the fee to become a notary/renew my commission?

The application fee to become or renew a notary commission is $45 (non-refundable). The fee may be paid online by credit card at the time the application is created, or it can be paid by check or money order and mailed to our office with the notarized application. If paying by check or money order, please make payment payable to Treasurer of Virginia.

How do I find out my previous registration number?

If your last application for notary was issued prior to 2010, we may no longer have a record of it. You can mark that you are a new notary on your application. A number will be assigned to you when you pick the commission up from the court.

If the commission was issued during or after 2010, you can look up your number on our website under the "Verify/Search for Notary Commission Information" tab.

Can I get a duplicate/copy of my commission certificate?

Our office does not issue duplicate certificates or copies of certificates. They are a one-time issue when you pick your commission up from the court.

If you need to verify your notary commission, it can be done on our website: https://solutions.virginia.gov/Notary/Search/Search.

I need to create a notary management account, but I am having trouble linking my notary information. What do I need to do?

If you are having trouble linking your notary management account, please review your commission information on our website under the "Verify/Search for Notary Commission Information" tab. The name must be formatted exactly like the commissioned name. This includes any punctuation after initials or suffixes. If you have tried with correct formatting of your name, please email our office at notary@governor.virginia.gov and include your full commissioned name and date of birth.

How do I change the name on my notary commission?

Please refer to the Name Change section of the current Virginia Notary Public Handbook for information on how to change your commissioned name.

The only way to change the name on your commission is to reapply under your new name. Your notary stamp/seal must match the name as you are commissioned. You are welcome to continue using your current commission. You can then sign your current name but must include "I was commissioned as …" on all documents you notarize.

Where do I find the status of my application?

You may log into your account to locate the status of your notary application. If you have any questions about the status, please email our office at notary@governor.virginia.gov with your full commissioned name and registration number.

Where do I order my notary stamp/seal?

Our office does not issue notary supplies (stamp/seal). Please do an internet search to locate a notary supply company to assist with ordering notary supplies.

What information should be on my stamp/seal?

A Virginia notary's seal must be photographically reproducible and contain the name of the notary exactly as it appears on the notary's commission, the words "Notary Public or Electronic Notary Public" if you are preforming and electronic notarization, Commonwealth of Virginia, the commission expiration date, and the notary's registration number. " Stamps/seals must be ordered through an outside vendor. All information on stamp/seal must be accurate.

I made a mistake on my application when creating it in the portal. How do I correct the information before mailing the notarized application to the office?

Prior to mailing your notarized application, you may handwrite any necessary changes on the application. We will make updates when we review your application for approval.

Review all applications thoroughly prior to mailing. We cannot make a correction to a name or court once it has been received by our office. To make changes after received by our office, you will need to create and submit a new application and application fee to have a new commission sent to the court.

What should I do if I have picked up my commission, but my notary status still shows "pending oath?"

If you have picked up your commission and it still shows "pending oath" status, it means the court has not entered your oath date. Please allow the court 2-3 weeks to update the record on their end. If more than a month has passed, please contact the court and have them enter your notary oath date in the system.

What should I do if I did not pick up my commission from the court before my 60 days passed?

By law, you must claim your commission at the court within 60 days after it is issued. If you fail to do so, you must submit a new application and application fee to have a new commission sent to the court. Failure to receive notice will not permit you to receive a commission after the 60 day period has expired.

How do I update my contact information for my notary commission?

Please log into your notary management account to update your contact information: https://solutions.virginia.gov/Notary/Account/LogOn.

How do I resign my notary commission?

Please send us an email to notary@governor.virginia.gov indicating that you would like your commission resigned. Be sure to include in the body of the email or attach a typed letter that has

your name, notary registration number, and the date that you would like for your commission to be resigned.

How do I dispose of my stamp/seal if I am no longer serving as a Virginia Notary Public?

As the notary, you may dispose of your notary stamp at your discretion. We would recommend rendering it unusable prior to disposing of it so that it cannot be used in a fraudulent manner.

What are the requirements to become a Virginia Notary Public?

A notary must be:

- at least eighteen years old,
- must be a legal resident of the United States,
- must be able to read and write the English language.

No person who has ever been convicted of a felony under the laws of the United States or this Commonwealth, or the laws of any other state, shall qualify to be appointed and commissioned as a notary public unless such person has been pardoned for such felony or has had his rights restored.

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

What is the turnaround time for approval of notary applications?

It usually takes 2-3 weeks for us to receive and process an application. Once processed, your commission will be sent to the selected circuit court. Our office will also send you notification at your preferred method of contact listed on your application. Please be sure to check your spam/junk mail if you have selected email.

You may log into your account to locate the status of your notary application. If you have any questions about the status, please email our office at notary@governor.virginia.gov with your full commissioned name and registration number.

Can my traditional notary application be notarized by an electronic notary?

Your notary application must be notarized by a traditional Virginia Notary Public. It cannot be notarized by an electronic notary.

How much can I charge for a notarial act?

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 $10.

DEFINITIONS PER CODE OF VIRGINIA

Sections 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 and the Secretary 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.

"Credential analysis" means a process or service that independently affirms the veracity of a government-issued identity credential by reviewing public or proprietary data sources and meets the standards of the Secretary.

"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.).

“Journal” A notary performing notarial acts or an electronic notary performing electronic notarial acts shall keep, maintain, protect, and provide for lawful inspection a record of notarial acts, or, in the case of an electronic notary, 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 any 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 or electronic notary; and (vi) the fee, if any, charged for the notarial act or electronic notarial act. If, in the case of an electronic notary, video and audio conference technology authorized under § 47.1-2 is the basis for satisfactory evidence of identity and the principal's identity has been ascertained upon presentation of such satisfactory evidence of identity, the electronic notary shall keep a copy of the recording of the video and audio conference and a notation of the type of any other identification used. The electronic notary shall take reasonable steps to (a) ensure the integrity, security, and authenticity of electronic notarizations, (b) maintain a backup for his electronic record of notarial acts, and (c) ensure protection of such backup records from unauthorized use.

(D.) The record of any nonelectronic notarial act performed on or after July 1, 2026, shall be maintained for a period of at least five years from the date of the transaction. 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.

"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" or "electronic notarization" means an official act by a notary under § 47.112 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. The "electronic notarial certificate" shall indicate whether the notarization was done in person or by remote online notarization.

"Electronic notary public" or "electronic notary" means a notary public who has been commissioned by the Secretary 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.

"Identity proofing" means a process or service that independently verifies an individual's identity in accordance with § 2.2-436.

"Knowledge-based authentication assessment" means an identity assessment formulated from public or private data sources for which the principal has not provided a prior answer that meets the following requirements:

1. The principal shall answer a quiz composed of at least five questions related to the principal's personal history or identity;
2. At least five possible answer choices shall be available for each question;
3. The principal shall pass the quiz if he achieves a score of 80 percent or higher;
4. The principal shall have two minutes to answer the questions on the quiz;
5. If the principal fails to achieve a score of at least 80 percent, the principal may attempt up to two additional quizzes within 48 hours following the first failed quiz; and
6. No more than 60 percent of the questions from the initial quiz can be reused on additional quizzes.

"Notarial act" or "notarization" means any official act performed by a notary under § 47.1-12 or 47.1-13, or 47.1-13.1 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.

"Remote online notarization" means an electronic notarization under this chapter where the signer is not in the physical presence of the notary.

"Satisfactory evidence of identity" means identification of an individual based on (i) examination of one or more of the following unexpired documents bearing a photographic image of the individual's face and signature: a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card or (ii) the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary and who personally knows the individual or of two credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in clause (i). In the case of an individual who resides in an assisted living facility, as defined in § 63.2-100, or a nursing home, licensed by the State Department of Health pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 or exempt from licensure pursuant to § 32.1-124, an expired United States Passport Book, expired United States Passport Card, expired foreign passport, or expired state issued driver's license or state issued identification card may also be used for identification of such individual, provided that the expiration of such document occurred within five years of the date of use for identification purposes pursuant to this title. In the case of an electronic notarization, "satisfactory evidence of identity" may be based on video and audio conference technology, in accordance with the standards for electronic video and audio communications set out in subdivisions B 1, 2, and 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 oath or affirmation of a credible witness who personally knows the principal and is either personally known to the notary or is identified pursuant to clause (c), or (c) is identified by at least two of the following: (1) credential analysis of an unexpired government-issued identification bearing a photograph of the principal's face and signature,; (2) identity proofing by an antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge Certification Authority, including any supplements thereto or revisions thereof; (3) another identity proofing method authorized in guidance documents, regulations, or standards adopted pursuant to § 2.2-436, or; (4) 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."; or (5) a knowledge-based authentication assessment.

"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.