

Code of Virginia

Title 47.1. Notaries and Out-of State Commissioners

## Chapter 1. General Provisions.

### § 47.1-1. Short title.

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

1980, c. 580.

### § 47.1-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

"Electronic notary seal" or "electronic seal" means information within a notarized electronic document that confirms the notary's name, jurisdiction, and commission expiration date and generally corresponds to data in notary seals used on paper documents.

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

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

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

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

"Oath" shall include "affirmation."

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

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

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

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

"Satisfactory evidence of identity" means identification of an individual based on (i) examination of one or more of the following unexpired documents bearing a photographic image of the individual's face and signature: a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card or (ii) the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary and who

personally knows the individual or of two credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in clause (i). In the case of an electronic notarization, "satisfactory evidence of identity" may be based on video and audio conference technology, in accordance with the standards for electronic video and audio communications set out in subdivisions B 1, B 2, and B 3 of § 19.2-3.1, that permits the notary to communicate with and identify the principal at the time of the notarial act, provided that such identification is confirmed by (a) personal knowledge, (b) an antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge Certification Authority, or (c) a valid digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification card that is designed, issued, and managed in accordance with the specifications published by the National Institute of Standards and Technology in Federal Information Processing Standards Publication 201-1, "Personal Identity Verification (PIV) of Federal Employees and Contractors," and supplements thereto or revisions thereof, including the specifications published by the Federal Chief Information Officers Council in "Personal Identity Verification Interoperability for Non-Federal Issuers."

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

"Secretary" means the Secretary of the Commonwealth.

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

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

1980, c. 580; 2007, cc. 269, 590; 2011, cc. 731, 834; 2012, c. 566; 2016, c. 185.

## Chapter 2. Appointment.

### **§ 47.1-3. Power of appointment.**

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

Code 1950, § 47-2; 1962, p. 287; 1972, c. 824; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2007, cc. 269, 590.

### **§ 47.1-4. Qualification for appointment.**

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

commissioned as a notary notwithstanding the provisions of § 2.2-2800.

Code 1950, §§ 47-2, 47-3; 1972, c. 824; 1976, c. 559; 1979, c. 14; 1980, c. 580; 1983, c. 435; 1986, c. 561; 1989, c. 163; 2007, cc. 269, 590; 2013, c. 86.

#### **§ 47.1-5. Application.**

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

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

Code 1950, § 47-2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2001, c. 488; 2002, c. 832; 2007, cc. 269, 590; 2008, cc. 117, 814.

#### **§ 47.1-5.1. Application for recommission.**

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

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

#### **§ 47.1-6. Reserved.**

Reserved.

#### **§ 47.1-6.1. Standards for electronic notarization.**

The Secretary of the Commonwealth shall develop standards for electronic notarization and the Virginia Information Technologies Agency shall provide assistance to the Secretary of the Commonwealth relating to the equipment, security, and technological aspects of the electronic notarization standards. The process for developing and maintaining such standards shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

2009, c. 160.

#### **§ 47.1-7. Additional requirements for performing electronic notarial acts.**

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

1. The applicant's full legal and official notary names;
2. A general description of the technology or technologies the registrant will use to create an electronic signature in performing official acts;
3. Certification of compliance to the Secretary of the Commonwealth with electronic notary

standards developed in accordance with § 47.1-6.1;and

4. The electronic mail address of the registrant.

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

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

2007, cc. 269, 590;2009, c. 160;2011, cc. 731, 834.

#### **§ 47.1-8. Commission to be issued, etc.**

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

Code 1950, § 47-2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2007, cc. 269, 590;2008, cc. 117, 814.

#### **§ 47.1-9. Oath of notary; duties of clerks.**

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

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

Such oath shall be signed by the applicant and attested by the clerk. The clerk shall thereupon issue to the applicant his commission as notary public or electronic notary public. Within 14 days of such qualification, the clerk shall certify the fact of such qualification to the Secretary of the Commonwealth.

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

1980, c. 580; 2007, cc. 269, 590;2008, cc. 117, 814;2012, c. 566.

#### **§ 47.1-10. Records of the Secretary.**

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

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

The Secretary may maintain these records in digital format.

Code 1950, § 47-2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 2007, cc. 269, 590.

**§ 47.1-11. Reference materials.**

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

1980, c. 580; 2007, cc. 269, 590.

**§ 47.1-11.1. Evidence of authenticity of electronic notarial act.**

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

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

Certificate of Authority for an Electronic Notarial Act

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

To verify this Certificate of Authority for an Electronic Notarial Act, I have included herewith my electronic signature this ✕ay of....., 20.✕

(Electronic signature and seal of commissioning official)

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

set by the Secretary.

2007, cc. [269](#), [590](#).

### Chapter 3. Powers and Duties.

#### **§ 47.1-12. Powers.**

Each notary shall be empowered to perform the following notarial acts: (i) take acknowledgments, (ii) administer oaths and affirmations, (iii) certify that a copy of any document, other than a document in the custody of a court, is a true copy thereof, (iv) certify affidavits or depositions of witnesses, (v) perform verification of fact, and (vi) perform such other acts as may be specifically permitted by law.

Code 1950, § 47-2.1; 1978, c. 621; 1980, c. 580; 2007, cc. [269](#), [590](#); 2011, cc. [731](#), [834](#).

#### **§ 47.1-13. Jurisdiction; Virginia notarial powers outside the Commonwealth.**

A. The powers of any notary commissioned pursuant to this title may be exercised anywhere within the Commonwealth of Virginia.

B. Any notary commissioned pursuant to this title may likewise perform notarial acts outside the Commonwealth, where such notarial acts are performed in accordance with this chapter.

C. An employee of the federal government authorized to perform notarial acts may perform notarial acts in accordance with this chapter.

D. An electronic notarial act performed in accordance with this chapter shall be deemed to have been performed within the Commonwealth and is governed by Virginia law.

Code 1950, § 47-2.1; 1978, c. 621; 1980, c. 580; 2007, cc. [269](#), [590](#); 2008, cc. [117](#), [814](#); 2011, cc. [731](#), [834](#).

#### **§ 47.1-13.1. Notarial powers outside the Commonwealth for use in the Commonwealth.**

A. Notarial acts may be performed outside the Commonwealth for use in the Commonwealth with the same effect as if performed by a notary public of the Commonwealth by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of the Commonwealth:

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

B. A document notarized outside the Commonwealth by a notary public or other person referenced in subsection A which appears on its face to be properly notarized shall be presumed to have been notarized properly in accordance with the laws and regulations of the jurisdiction in which the document was notarized.

2008, cc. 117, 814.

**§ 47.1-14. Duty of care.**

A. A notary shall exercise reasonable care in the performance of his duties generally. He shall exercise a high degree of care in ascertaining the identity of any person whose identity is the subject of a notarial or electronic notarial act.

B. Unless such person is personally known by the notary, identity shall be ascertained upon presentation of satisfactory evidence of identity as defined in this title.

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

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

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

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

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



signed in the official name in which he was commissioned.

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

#### **§ 47.1-15. Prohibitions.**

A notary shall not:

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

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

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

A notary may decline to notarize a document.

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

2007, cc. 269, 590; 2008, c. 685; 2011, cc. 731, 834.

#### **§ 47.1-15.1. Additional prohibition on advertising; penalties.**

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

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

C. Any person who violates the provisions of subsection B is subject to a civil penalty not to exceed \$500 for a first violation and a civil penalty not to exceed \$1,000 for a second or subsequent violation. All penalties arising under this section shall be recovered in a civil action

brought by the Attorney General in the name of the Commonwealth and the proceeds shall be deposited into the Legal Aid Services Fund established in § 17.1-278.

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

2014, cc. 544, 783.

**§ 47.1-16. Notarizations to show date of act, official signature and seal, etc.**

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

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

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

"My commission expires the ay of.....,....."

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

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

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

Code 1950, § 55-116; 1980, c. 580; 2007, cc. 269, 590; 2008, cc. 117, 814; 2009, c. 160.

**§ 47.1-17. Change of name.**

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

Code 1950, § 55-117; 1973, c. 401; 1980, c. 580; 2007, cc. 269, 590.

**§ 47.1-18. Notice of change of address; etc.**

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

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

1980, c. 580; 2007, cc. 269, 590.

### **§ 47.1-19. Fees.**

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

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

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

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

1980, c. 580; 1981, c. 311; 1996, c. [219](#); 2003, c. [881](#); 2005, c. [18](#); 2007, cc. [227](#), [269](#), [590](#).

### **§ 47.1-20. Fee agreements with employer.**

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

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

1980, c. 580; 2007, cc. [269](#), [590](#); 2018, c. [698](#).

### **§ 47.1-20.1. Validation of certain acts.**

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

1983, c. 435.

## **Chapter 4. Term of Office.**

### **§ 47.1-21. Commission as notary.**

The commission of a notary public shall be four years, except as shall be otherwise provided in this title. The commission of a notary public shall expire in the fourth calendar year after issuance of his commission on the last day of the month in which the notary was born.

1980, c. 580; 1989, c. 594; 2007, cc. [269](#), [590](#).

### **§ 47.1-22. Resignation; removal from Commonwealth; etc.**

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

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

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

D. Every notary who wishes to resign from office, or who ceases to be a notary pursuant to subsections B or C of this section, shall forthwith mail or deliver his commission to the Secretary, who shall cancel the same. The notary shall be responsible for the destruction of the official physical seal.

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

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

1980, c. 580; 2007, cc. 269, 590.

**§ 47.1-23. Grounds for removal from office.**

The Secretary may revoke the commission of any notary who:

1. Submits or has submitted an application for commission and appointment as a notary public which contains a substantial and material misstatement of fact;
2. Is convicted or has been convicted of any felony under the laws of the United States or this Commonwealth, or the laws of any other state, unless the notary has been pardoned for such offense, has had his conviction vacated by a granting of a writ of actual innocence, or has had his rights restored;
3. Is found to have committed official misconduct by a proceeding as provided in Chapter 5 (§ 47.1-24 et seq.);
4. Fails to exercise the powers or perform the duties of a notary public in accordance with this title, provided that if a notary is adjudged liable in any court of the Commonwealth in any action grounded in fraud, misrepresentation, impersonation, or violation of the notary laws of the Commonwealth, such notary shall be presumed removable under this section;
5. Performs a prohibited act pursuant to § 47.1-15 or 47.1-15.1;
6. Is convicted of the unauthorized practice of law pursuant to § 54.1-3904, or is a licensed attorney at law whose license is suspended or revoked;
7. Ceases to be a legal resident of the United States;
8. Becomes incapable of reading or writing the English language;

9. Is adjudicated mentally incompetent; or

10. Fails to keep the official physical seal, journal, or device, coding, disk, certificate, card, software, or passwords used to affix the notary's official electronic signature or seal under the exclusive control of the notary when not in use.

Code 1950, § 47-2; 1962, p. 687; 1976, c. 559; 1979, c. 14; 1980, c. 580; 1983, c. 435; 2007, cc. 269, 590; 2013, c. 86; 2014, cc. 544, 783.

## Chapter 5. Removal.

### **§ 47.1-24. Removal of notary by administrative process; surrender of commission; penalty.**

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

B through D. [Repealed.]

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

F. Upon being notified that an evidentiary proceeding has been initiated under this section, the notary who is the subject of such a proceeding shall forthwith cease to serve as a notary for a period of sixty days, or until his case has been decided, whichever period shall be shorter. If the Secretary finds that grounds for removal exist, such notary shall be further suspended from serving as a notary until the Secretary has made a final disposition of the case under subsection E of this section; however, no notarial act shall be deemed invalid solely by reason of having been performed by a notary who has been suspended pursuant to this subsection.

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

H. [Repealed.]

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

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

### **§ 47.1-25. Disqualification from office.**

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

Code 1950, § 47-4.7; 1979, c. 410; 1980, c. 580; 2007, cc. 269, 590.

## Chapter 6. Civil and Criminal Liability.

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

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

Code 1950, § 47-3; 1972, c. 824; 1980, c. 580.

### **§ 47.1-27. Civil liability of employer of notary.**

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

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

1980, c. 580.

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

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

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

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

1980, c. 580; 2008, cc. [117](#), [814](#).

### **§ 47.1-29. Impersonation of notary a felony.**

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

1980, c. 580.

#### **§ 47.1-29.1. Wrongful possession of software or hardware.**

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

2007, cc. [269](#), [590](#).

### **§ 47.1-30. Conflict of interests.**

No notary shall perform any notarial act with respect to any document, writing, or electronic document to which the notary or his spouse is a party, or in which either of them has a direct beneficial interest, or where the notary is a signatory or is named in the document to be notarized, except that a notary named in a document for the purpose of receiving notices, or named in a document as executor, trustee, or other fiduciary, shall not, for that reason alone, be

precluded from performing notarial acts with respect to such document.

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

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

1980, c. 580; 1992, c. 194; 2007, cc. [269](#), [590](#); 2011, c. [746](#); 2012, c. [566](#).

## Chapter 7. Out-of State Commissioners [Repealed].

**§§ 47.1-31 through 47.1-33. Repealed.**

Repealed by Acts 2007, cc. [269](#) and [590](#), cl. 2.