

## RHODE ISLAND GENERAL LAWS

### TITLE 9. COURTS AND CIVIL PROCEDURE—PROCEDURE GENERALLY CHAPTER 17. WITNESSES

**9-17-3. Subpoenas issued by other officials.** – Auditors, referees, masters in chancery, and commissioners may issue subpoenas to witnesses in all cases and matters pending before them, respectively; and justices of the peace and notaries public may issue subpoenas to witnesses in any case, civil or criminal, before any court, and in any matter before any body or person authorized by law to summon witnesses.

### CHAPTER 18. DEPOSITIONS

**9-18-1. Officials authorized to take depositions.** – Any justice of the supreme or superior or family court, justice of the peace, or notary public may take the deposition of any witness to be used in the trial of any civil suit, action, petition, or proceeding in which he or she is not interested, nor counsel, nor the attorney of either party, and which shall then be commenced or pending in this state, or in any other state, or in the District of Columbia, or in any territory, government, or country.

### TITLE 34. PROPERTY CHAPTER 11. FORM AND EFFECT OF CONVEYANCES

**34-11-1.1. Signing and printing names.** – The signatories and notaries public to all deeds, mortgages, transfers, assignments, and discharges of mortgages, leases, rental agreements, rescissions or assignments thereof, and contracts for the sale of land shall have their names typed or printed immediately beneath or adjacent to their signatures. Failure to comply herewith shall not affect the validity of any such instrument, but the recording fee for the instrument shall be increased by two dollars (\$2.00).

### CHAPTER 12. ACKNOWLEDGMENTS AND NOTARIAL ACTS

**34-12-1. Form of acknowledgment – Foreign acknowledgments.** – Acknowledgment of any instrument hereafter made need not be in any set form, but shall be made by all the parties executing the instrument and the certificate thereof shall express the ideas that the parties were each and all known to the magistrate taking the acknowledgment, and known by the magistrate to be the parties executing the instrument, and that they acknowledge the instrument to be their free act and deed; provided, however, that in case of any such instrument executed without this state, and within the limits of the United States or of any dependency thereof, if the instrument is acknowledged or proved in the manner prescribed by the law of the state, District of Columbia, territory or such dependency, where executed, it shall be deemed to be legally executed, and acknowledged and shall have the same effect as if executed and acknowledged in the mode above prescribed, including an acknowledgment by less than all parties if made in a jurisdiction the laws of which permit acknowledgments in that manner; provided, however, that instruments requiring acknowledgments by parties having opposing interests must be acknowledged by at least one party of each interest.

**34-12-2. Officers authorized to take acknowledgments.** – Acknowledgment of any instrument required by any statute of this state to be acknowledged shall be made:

(1) Within this state, before any state senator, any state representative, judge, justice of the peace, clerk or assistant clerk of the superior court, mayor, notary public, town clerk or recorder of deeds.

(2) Without this state and within the limits of United States or any dependency thereof, before any judge or justice of a court of record or other court, justice of the peace, mayor or notary public, of the state, District of Columbia, territory or such dependency, in which such acknowledgment is made, or before any commissioner appointed by the governor of this state, or before any officer authorized by law to take acknowledgments of deeds in the place in which the acknowledgment is made.

(3) Without the limits of the United States, before any of the following officers acting within his territorial jurisdiction or within that of the court of which he or she is an officer:

(i) An ambassador, envoy, minister, charge d'affaires, secretary of legation, consul-general, consul, vice-consul, consular agent, vice-consular agent, or any other diplomatic or consular agent or representative of the United States, appointed or accredited to, and residing within the country where the acknowledgment or proof is taken.

(ii) A judge or other presiding officer of any court having a seal or the clerk or other certifying officer thereof.

(iii) A mayor or other chief civil officer of any city or other political subdivision.

(iv) A notary public.

(v) A person residing in, or going to, the country where the acknowledgment or proof is to be taken, and specially authorized for that purpose by a commission issued to him or her under the seal of the superior court.

(vi) Any person authorized, by the laws of the country where the acknowledgment or proof is made, to take acknowledgments of conveyances of real estate or to administer oaths in proof of the execution thereof.

**34-12-3. Acknowledgments in good faith before person claiming to be authorized – Penalty for misrepresentation.** – Any acknowledgment made in good faith before a person claiming to be one of the foregoing officials authorized to take acknowledgments within the respective jurisdictions as above, shall be valid, although the official before whom the acknowledgment is made was not duly qualified in that office; but every person who shall, within this state, wilfully take and certify to the taking of any such acknowledgment, without being lawfully qualified thereunto, shall be liable in a criminal proceeding to a fine not exceeding fifty dollars (\$50.00), one-half (1/2) to the use of the complainant and the other half thereto to the use of this state.

**34-12-4. Instruments executed by diplomatic officials outside United States.** – Every instrument requiring acknowledgment, executed without the limits of the United States, concerning lands lying within this state, in which instrument any ambassador, minister, charge d'affaires, consul general, vice-consul general, consul, vice-consul, consular agent, commercial agent, of the United States, or commissioner appointed by the governor of this state, shall be grantor, may be executed in the presence of two (2) witnesses; and when so executed, an official certificate under the hand and official seal of the grantor that such instrument is his act and deed shall be equivalent to an acknowledgment of such instrument in the manner required by law.

**34-12-5. Power of armed forces officers to take acknowledgments.** – In addition to the acknowledgment of instruments and the performance of other notarial acts in the manner and form and as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial acts performed, before or by any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the army, air force, or marine corps, or with the rank of ensign or higher in the navy or coast guard, or with equivalent rank in any other component part of the armed forces of the United States, by any person without the limits of the United States, and to any person who is a member of the armed forces who is within or without the limits of the United States and their lawful dependents.

**34-12-6. Effect of acknowledgment before armed forces officer.** – An acknowledgment of instruments, attestation of documents, administration of oaths and affirmations, execution of depositions and affidavits, and performance of other notarial acts, made or taken before an armed forces officer, are hereby declared legal, valid, and binding, and instruments and documents so acknowledged, authenticated, or sworn to shall be admissible in evidence and eligible to be recorded in this state under the same circumstances and with the same force and effect as if the acknowledgment, attestation, oath, affirmation, deposition, affidavit, or other notarial act had been made or taken within this state before or by a duly qualified officer or official as otherwise provided by law.

**34-12-7. Contents of certificate of armed forces officer.** – In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate endorsed upon or attached to the instrument or documents, which shows the date of the notarial act and which states, in substance that the person appearing before the officer acknowledged the instrument as his or her act or made or signed the instrument or document under oath, shall be sufficient for all intents and purposes. The instrument or document shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

**34-12-8. Proof of authority of armed forces officer.** – If the signature, rank, and branch of service or subdivision thereof, of any such commissioned officer appear upon such instrument or document or certificate, no further proof of authority of the officer so to act shall be required and the action by the commissioned officer shall be prima facie evidence that the person making the oath or acknowledgment is within the purview of §§ 34-12-5 – 34-12-7.

**34-12-9. Validation of prior acknowledgments before foreign notary public.** – Any acknowledgment taken or made prior to April 27, 1928, of or upon any instrument used in conveying, directly or indirectly, any interest in real estate in this state, including power of attorney, and any other instruments heretofore acknowledged prior to April 27, 1928, before any notary public in any foreign country or territory without the United States, which instrument appears of record to have been duly recorded in any of the records of land evidence in this state, and the acknowledgment therein appearing was taken before a notary public outside the United States, which notary public was duly commissioned in the foreign place where the acknowledgment was taken, to take the acknowledgment, and the acknowledgment is accredited, approved or affirmed, or the commission of the foreign notary public is attested or certified by any ambassador, minister, charge d'affaires, consul

general, vice-consul general, consul, vice consul, or consular agent of the United States, or any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the army, air force, or marine corps, or with the rank of ensign or higher in the navy or coast guard, or with equivalent rank in any other component of the armed forces of the United States, duly establishing the fact that the notary public was at the time of taking the acknowledgment duly authorized by the law, rules, or regulations of his or her particular country or territorial section thereof, in which the acknowledgment was taken, to duly administer oaths or take acknowledgments, then the acknowledgment and conveyance in connection with which the acknowledgment was taken shall, for the purpose of the acknowledgment and execution thereof, be deemed a valid acknowledgment, and shall have the same effect as if acknowledged before a notary public in this state.

**TITLE 36. PUBLIC OFFICERS AND EMPLOYEES**  
**CHAPTER 2. POWER OF OFFICERS TO ADMINISTER OATHS**

**36-2-1. Officers with statewide power.** – The following persons may administer oaths anywhere within the state: the governor, lieutenant governor, secretary of state, attorney general, assistant attorneys general, general treasurer, active and retired justices of the supreme, superior, family, and district courts, each member of the general assembly after he or she has filed his or her signature with the secretary of state, commissioners appointed by other states to take acknowledgments of deeds and depositions within this state, and notaries public.

**36-2-2. Officers with power in county or town.** – The following persons may administer oaths within the respective counties and towns for which they may be elected or appointed to office: clerks of courts, justices of the peace, mayors of cities, judges of probate, presidents of town councils, or persons acting as such, town clerks, and town wardens.

**36-2-3. Power in connection with duties of office.** – The following persons may administer oath in relation to all matters connected with, or in administering the duties of, their respective offices: the director of each state department, forepersons of grand juries, members of committees of either house of the general assembly or of joint committees thereof, chairpersons of committees of either board of a city council or of joint committees thereof, members of town councils, auditors, referees, masters in chancery, commissioners on insolvent estates, the bank commissioner, the insurance commissioner, the securities commissioner, the tax administrator, the public utilities administrator, assessors of taxes, and other officers as may be authorized by the acts creating their respective offices to administer oaths.

**36-2-4. Fees for acknowledgments and engagements.** – To all officers empowered to take acknowledgments of deeds and administer oaths of engagement to office, there shall be allowed:

- (1) For taking acknowledgment of one or more parties to any instrument at one time  
\$ .50
- (2) For engaging every officer .25

**TITLE 42. STATE AFFAIRS AND GOVERNMENT**  
**CHAPTER 30.1 REVISED UNIFORM LAW ON NOTARIAL ACTS**

**42-30.1-1. Title.**

This chapter shall be known and may be cited as the Uniform Law on Notarial Acts.

**42-30.1-2. Definitions.**

For purposes of this chapter, the following definitions apply:

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

(2) “Commissioning agency” means the Rhode Island office of the secretary of state.

(3) “Commissioning officer” means the governor of the state of Rhode Island.

(4) “Communication technology” means an electronic device or process that:

(i) Allows simultaneous communication by sight and sound between a notary public and a remotely located individual; and

(ii) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment by providing reasonable accommodations.

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

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

(7) “Foreign state” means a jurisdiction other than the United States, a state, territory, or a federally recognized Indian tribe.

(8) “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

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

(i) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(ii) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(iii) An agent or attorney-in-fact for a principal; or

(iv) An authorized representative of another in any other capacity.

(10) “Notarial act” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, noting a protest of a negotiable instrument and transact, do and finish all matters and things relating to protests and protesting bills of exchange and promissory notes, and all other matters within their office required by law, take depositions as prescribed by law, and acknowledgments of deeds and other instruments.

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

(12) “Notary public” means an individual commissioned to perform a notarial act by

the commissioning officer.

(13) “Official stamp” means a physical image affixed to a tangible record or an electronic image attached to, or logically associated with, an electronic record.

(14) “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

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

(16) “Record” 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.

(17) “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act pursuant to § 42-30.1-12.1.

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

(i) To execute or adopt a tangible symbol; or

(i)(ii) To attach to, or logically associate with, the record an electronic symbol, sound, or process.

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

(20) “Stamping device” means:

(i) A physical device capable of affixing an official stamp upon a tangible record; or

(ii) An electronic device or process capable of attaching to, or logically associating an official stamp with, an electronic record.

(21) “State” means a state of the United States of America, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

#### **42-30.1-3. Authority to perform notarial act.**

(a) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(b) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

#### **42-30.1-4. Requirements for certain notarial acts.**

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

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

(c) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the

individual appearing before the notarial officer and signing the record has the identity claimed.

**42-30.1-5. Personal appearance required.**

If a notarial act relates to a statement made in, or a signature executed upon, a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. For purposes of this section, personal appearance means that the principal and the notary public communicate by communication technology at the time of the notarization; or that the principal and notary public are physically close enough to communicate with each other at the time of notarization.

**42-30.1-6. Identification of individual.**

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

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

(1) By means of:

(i) A passport, driver's license, or government-issued, non-driver identification card, which that is current or expired not more than three (3) years before performance of the notarial act; or

(ii) Another form of government identification issued to an individual, that is current or expired not more than three (3) years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the notarial officer; or

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

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

**42-30.1-7. Authority to refuse to perform notarial act.**

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

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

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

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

**42-30.1-8. Signature if individual unable to sign.**

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

**42-30.1-9. Notarial act in this state.**

The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

**42-30.1-10. Notarial act in another state.**

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

- (1) A notary public of that state;
- (2) A judge, clerk, or deputy clerk of a court of that state; or
- (3) Any other individual authorized by the law of that state to perform the notarial act.

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

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

**42-30.1-11. Notarial act under federal authority.**

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

- (1) A judge, clerk, or deputy clerk of a court;
- (2) An individual in military service, or performing duties under the authority of military service, who is authorized to perform notarial acts under federal law;
- (3) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
- (4) Any other individual authorized by federal law to perform the notarial act.

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

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

**42-30.1-12. Foreign notarial act.**

(a) In this section, “foreign state” means a government other than the United States of America or a state not including the state of Rhode Island.

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

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

(d) The signature and official stamp of an individual holding an office described in subsection (c) are prima facie evidence that the signature is genuine and the individual



holds the designated title.

(e) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

**42-30.1-12.1. Notarial act performed for remotely located individual.**

(a) A remotely located individual may comply with § 42-30.1-5 by using communication technology to appear before a notary public.

(b) A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) The notary public:

(i) Has personal knowledge under § 42-30.1-6(a) of the identity of the individual;

(ii) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under § 42-30.1-6(b)(2); or

(iii) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two (2) different types of identity proofing;

(2) The notary public is reasonably able to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) The notary public, or a person acting on behalf of the notary public, creates an audio-visual recording of the performance of the notarial act; and

(4) For a remotely located individual located outside the United States:

(i) The record:

(A) Shall be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(c) If a notarial act is performed under this section, the certificate of notarial act required by § 42-30.1-12.2 and the short-form certificate provided in § 42-30.1-12.2 must indicate that the notarial act was performed using communication technology.

(d) A short-form certificate provided in § 42-30.1-12.2(g) for a notarial act subject to this section is sufficient if it:

(1) Complies with rules adopted under subsection (g)(1) of this section; or

(2) Is in the form provided in § 42-30.1-12.2(g) and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(e) A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection (b)(3) of this section, or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection (g)(4) of this section, the recording must be retained for a period of at least ten (10) years after the recording is made.

(f) Before a notary public performs the notary public's initial notarial act under this section, the notary public must notify the commissioning agency that the notary public will

be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the commissioning agency has established standards under subsection (g) of this section for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

**42-30.1-12.2. Certificate of notarial act for a remotely located individual.**

(a) A notarial act for a remotely located individual pursuant to § 42-30.1-12.1 shall be evidenced by a certificate. The certificate shall:

- (1) Be executed contemporaneously with the performance of the notarial act;
- (2) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the commissioning agency;
- (3) Identify the jurisdiction in which the notarial act is performed;
- (4) Contain the title of office of the notarial officer; and
- (5) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(b) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsections (a)(2), (a)(3), and (a)(4) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsections (a)(2), (a)(3), and (a)(4) of this section, an official stamp may be attached to or logically associated with the certificate.

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

- (1) Is in a form otherwise permitted by the laws of this state;
- (2) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
- (3) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in §§ 42-30.1-4, 42-30.1-5, and 42-30.1-6 or any other applicable laws of this state.

(d) By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with the requirements and made the determinations specified in §§ 42-30.1-3, 42-30.1-4, and 42-30.1-5.

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

(f) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record.

(g) The commissioning agency shall develop short form certificates of notarial acts, if completed with the information required by subsections (a), (b) and (c) of this section, for the following purposes:

- (1) An acknowledgment in an individual capacity;
- (2) An acknowledgment in a representative capacity;
- (3) A verification on oath or affirmation;
- (4) Witnessing or attesting a signature;
- (5) Certifying a copy of a record.

#### **42-30.1-13. Official stamp.**

The official stamp of a notary public must:

(1) Include the notary public's name, the words "notary public," jurisdiction, and other information required by the rules of the commissioning agency; and

(2) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated;

(3) This section shall not preclude a notarial officer who is a member of the general assembly in this state from notarizing a document without the use of a stamp on the floor of the general assembly during open session.

#### **42-30.1-14. Notification regarding performance of notarial act on electronic record; selection of technology.**

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

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the commissioning agency that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the commissioning agency has established standards for approval of technology, the technology must conform to the standards. If the technology conforms to the standards, the commissioning agency shall approve the use of the technology.

#### **42-30.1-15. Commission as notary public; qualifications; no immunity or benefit.**

(a) A notarial act may be performed in this state by:

(1) A notary public of this state;

(2) An individual qualified under subsection (b) of this section may apply to the commissioning officer for a commission as a notary public. The applicant shall comply with the information required herein and pay the sum of eighty dollars (\$80.00).

(b) An applicant for a commission as a notary public must:

(1) Be at least eighteen (18) years of age;

(2) Be a citizen or permanent legal resident of the United States;

(3) Be a resident of or have a place of employment or practice in this state;

(4) Be able to read and write English;

(5) Not be disqualified to receive a commission under § 42-30.1-16; and

(6) Demonstrate sufficient knowledge of the powers and duties pursuant to the requirements of this chapter.

(c) A member in good standing of the Rhode Island bar and certified public accountants under § 5-3.1-5, shall, regardless of residence, be appointed a notary public upon application and presentment of a certified copy of their certificate of admission to the bar or certificate of public accountancy;

(d) Every state senator, state representative, member of a city or town council, chief, deputy, and assistant clerk of any state court, clerks of the board of canvassers and workers' compensation court, municipal clerks, and the board of canvassers registrar may be appointed a notary public following election, appointment, or hiring, as applicable, and upon application and presentment of reasonable evidence of the office or employment, and shall retain the appointment throughout the uninterrupted duration and term of the office,

appointment, or employment;

(1) No notary public set forth in subsection (d) shall be required to pay an application fee. The notaries public set forth in subsection (d) must complete the appropriate oath of office as set forth in subsection (2). The notaries public set forth in subsection (d) who may be reappointed or continued in office, may continue to officiate while in office without taking a new oath of office.

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

(e) Two (2) police officers from each state and local police department of this state, as identified in writing by the chief of police.

(f) On compliance with this section, the commissioning officer shall issue a commission as a notary public to an applicant for a term of four (4) years.

(g) Every notary public appointed by the commissioning officer and not reappointed, may continue to officiate for a space of thirty (30) days after the date on which his or her commission expires.

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

#### **42-30.1-16. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.**

(a) The commissioning officer may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including without limitation:

(1) Failure to comply with this chapter;

(2) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the commissioning officer and/or agency;

(3) A conviction of the applicant or notary public of any crime that involves fraud, dishonesty, or deceit; provided that in determining whether to deny, refuse to renew, revoke, suspend, or condition the commission, the commissioning officer shall consider such factors as the seriousness of the crime; whether the crime relates directly to the training and skills needed for the commission of a notary public; how much time has elapsed since the crime was committed; and the applicant's actions and conduct since the crime was committed;

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

(5) Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have;

(6) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

(7) Termination or revocation of a certificate of admission to the Rhode Island bar or a certificate of public accountancy.

(b) If the commissioning officer denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 35 of this title.

(c) The authority of the commissioning officer to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

#### **42-30.1-17. Database of notaries public.**

The commissioning agency shall maintain an electronic database of notaries public:

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

(2) Which That indicates whether a notary public has notified the commissioning agency that the notary public will be performing notarial acts on electronic records.

#### **42-30.1-18. Prohibited acts.**

(a) A commission as a notary public does not authorize an individual to:

(1) Assist persons in drafting legal records, give legal advice, or otherwise practice law;

(2) Act as an immigration consultant or an expert on immigration matters;

(3) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or

(4) Receive compensation for performing any of the activities listed in this subsection.

(b) A notary public may not engage in false or deceptive advertising.

(c) A notary public, other than an attorney licensed to practice law in this state, may not use the term “notario” or “notario publico”.

(d) A notary public, other than an attorney licensed to practice law in this state, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the commissioning agency, in the advertisement or representation, prominently and in each language used in the advertisement or representation: “I am not an attorney licensed to practice law in this state. I am not licensed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.” If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(e) Except as otherwise allowed by law, a notary public may not withhold access to, or possession of, an original record provided by a person that seeks performance of a notarial act by the notary public.

#### **42-30.1-19. Validity of notarial acts.**

Except as otherwise provided in § 42-30.1-3(b), the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the law of this state other than this chapter or law of the United States of America. This section does not validate a purported notarial act performed by an individual who does not have the

authority to perform notarial acts.

**42-30.1-20. Fees for authentication of a notary public signature.**

A fee of five dollars (\$5.00) shall be charged and collected by the office of the secretary of state for the authentication or certification of the signature of a notary public. In any event where the office of the secretary of state shall authenticate or certify the signatures of a notary public upon multiple relevant documents presented simultaneously, and all of which documents pertain to the same matter or transaction and are to be filed at one time, the aggregate fee charged for said the authentications or certifications shall be the lesser of the above-referenced fee charged per each authentication or certification, or one hundred fifty dollars (\$150).

**42-30.1-20.1. Fees to perform notarial acts.**

(a) A notary public may charge a fee not to exceed twenty-five dollars (\$25.00) per document or notarization. All fees must be disclosed to any person utilizing the services of the notary public prior to performance of the notarial act.

(b) In performing a notarial act for a remotely located individual pursuant to § 42-30.1-12.1, a notary public may charge a fee not to exceed twenty-five dollars (\$25.00) per document or notarization. All fees must be disclosed to any person utilizing the services of the notary public prior to the performance of a notarial act pursuant to § 42-30.1-12.1.

**42-30.1-21. Notary public – Fraud or deceit in office.**

A notary public, who, in the exercise of the powers, or in the performance of the duties of such the office, shall practice any fraud or deceit, the punishment for which is not otherwise provided for by law, shall be guilty of a misdemeanor and fined not more than one thousand dollars (\$1,000), or imprisoned not more than one year, or both.

**42-30.1-22. Notary public commission effect.**

A commission as a notary public in effect on January 1, 2019, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2019, is subject to and shall comply with this chapter. A notary public, in performing notarial acts after January 1, 2019, shall comply with this chapter.

**42-30.1-23. Savings Clause.**

This chapter does not affect the validity or effect of a notarial act performed before January 1, 2019.

**42-30.1-24. Relation to electronic signatures in global and national commerce act.**

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

## **CHAPTER 31. COMMISSIONERS**

**42-31-1 Appointment of commissioners.** – The governor may appoint, in any foreign country, and in any state of the United States, and in any territory of the United States and

in the District of Columbia, one or more commissioners, under the seal of the state, to continue in office for the period of five (5) years.

**42-31-2 Oath of office.** – Before any commissioner shall perform any duty of his or her office, he or she shall take and subscribe an oath before some officer authorized to administer oaths in the state, country or territory, or District of Columbia, for which the commissioner is appointed, that he or she will faithfully discharge all the duties of his or her office; a certificate of which shall be filed in the office of the secretary of state of this state within six (6) months after the taking of the oath.

**42-31-3 Powers of commissioners.** – The commissioners may administer oaths and take depositions and affidavits to be used in this state; and may also take the acknowledgment of any deed or other instrument to be used or recorded in this state.

**42-31-4 Effectiveness of acts of commissioners.** – All oaths administered by commissioners, and all affidavits and depositions taken by them, and all acknowledgments aforesaid certified by them, shall be as effectual in law, to all intents and purposes, as if certified by any judge, justice of the peace, or notary public, within this state.

## **CHAPTER 42-127.1. UNIFORM ELECTRONIC TRANSACTIONS ACT**

### **§ 42-127.1-11 Notarization and acknowledgement.** –

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

## **RHODE ISLAND REGULATIONS DEPARTMENT OF ADMINISTRATION RULES OF PRACTICE AND PROCEDURE FOR INVESTIGATING, PROSECUTING, AND ADJUDICATING ALLEGATIONS AGAINST NOTARIES PUBLIC**

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### **Section 1 Introduction, Scope, Applicability and Authority**

These Rules of Practice and Procedure (hereinafter the “Rules”) are adopted by the Rhode Island Department of Administration (“Department”) as a result of Executive Order 09-08, a copy of which is attached hereto as Appendix A, and pursuant to RIGL §§ 42-11-1 *et seq.*, 42-35-1 *et seq.* and 42-92-1 *et seq.* for the purpose of investigating, prosecuting and adjudicating claims and charges against duly commissioned notaries in accordance

with RIGL § 42-30-10. Issues not addressed in these Rules or for which any party seeks clarification are to be considered in light of R.I. Gen. Laws §§ 42-11-1 *et seq.* and 42-35-1 *et seq.*

These Rules shall govern the conduct of Notary Public investigations, prosecutions, and adjudications before the Department commenced after their effective date. These Rules shall be liberally construed to further the fair, prompt and orderly administration and determination of adjudicatory proceedings in conformity with the Rhode Island Administrative Procedures Act, RIGL § 42-35-1 *et seq.* These Rules incorporate the Standards of Conduct for Notaries Public in the State of Rhode Island referenced and endorsed in Executive Order 09-25 (“Standards”) attached as Appendix B.

## **Section 2 Definitions**

When used in these Rules, the following words, except as otherwise required by the context, shall have the following meaning described below. Additionally, all definitions set forth in the Standards (Appendix B) are incorporated herein by reference to these Rules.

(A) “Contested Case(s)” means an adjudicatory proceeding before a Hearing Officer, as hereinafter defined, of the Department in which the legal rights, duties or privileges of a party are determined.

(B) “Complainant” – the person or persons submitting a complaint to the Department against a Notary Public.

(C) “Complaint” means allegations against a notary public that he or she has violated the Standards of Conduct included in Appendix B. The Complaint shall state at a minimum:

- Complainant Information (Name and contact information)
- Respondent/Notary Public Information (Name and contact information)
- Nature of Complaint/Allegation of violation – including the date of the alleged act, witnesses, and any facts deemed relevant to the allegation.

For convenience purposes, a Complaint form is attached as Appendix C.

(D) “Department Counsel” means the legal representative of the Department.

(E) “Director” means the Director of the Department.

(F) “Division” means a Division of the Department with the authority to perform statutorily designated Department functions.

(G) “Hearing Officer” means the individual(s) authorized by law or duly designated by the Director to hear, conduct and recommend decisions to the Director in Contested Cases.

(H) “Notary” or “Notary Public” shall mean any person commissioned to perform official acts pursuant to Title 42, Chapter 30 of the Rhode Island General Laws, as amended from time to time.

(I) “Party” or “Parties” means each person named or admitted as a Party, or properly seeking and entitled as of right to be admitted as a Party in a Contested Case.

(J) “Reasonable Cause” means an apparent state of facts of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs which if found to exist upon reasonable inquiry would induce a reasonably intelligent and prudent person to believe that a cause of action existed.

(K) “Respondent” means a Party who is the subject of a complaint and/or Department investigation pursuant to Section 3 of this Regulation.

## **Section 3 Complaints and Department Investigations**

(A) Complaints. A Complaint, as defined above, may be made by any identifiable person against a Notary Public. Such Complaint shall be in writing and should preferably



be on a form provided by the Department (attached as Appendix C). The Department shall make an initial determination whether the Complaint is within the Department's jurisdiction and whether the complaint states sufficient facts to establish Reasonable Cause, if assumed to be true, to proceed with an investigation. If the Complainant does not have first hand knowledge of the facts stated in the Complaint, the Department may further inquire as it deems appropriate.

(B) If no jurisdiction exists or the complaint does not state sufficient facts establishing Reasonable Cause to proceed with an investigation, the Department shall notify the Complainant in writing of its determination.

(C) If jurisdiction exists and the Complaint states sufficient facts establishing Reasonable Cause, the Department shall make whatever investigation it deems necessary, including serving a copy of the Complaint to the Respondent. Service of the Complaint to the respondent may be sent through regular or certified mail, postage pre-paid, to the Respondent's home address or place of business or through hand delivery. If instructed to do so by the Department, the Respondent shall be requested to file a response to the Complaint within the time frame specified by the Department, which shall not be less than twenty (20) days from mailing.

(D) Upon completion of its investigation, the Department may take one of the following actions:

(1) if the Department determines that the Complaint fails to establish Reasonable Cause for a finding of a violation of the Standards, the Department shall take no action on the Complaint, so advising the Complainant and Respondent in writing; or,

(2) if the Department determines that the Complaint establishes Reasonable Cause, the Department shall take such action as it deems appropriate under applicable law and the rules and regulations adopted pursuant thereto, including the removal or suspension of the Notary Public in accordance with RIGL § 42-30-10. The Department will provide the following notice to the Respondent via regular and certified mail, postage pre-paid, a notice of determination which shall provide:

(1) a statement of legal authority and jurisdiction to proceed;

(2) a statement of the allegations and findings, including a copy of the Complaint;

(3) reference to particular statutes, rules or Standards that appear to have been violated;

(4) a statement of the sanctions to be imposed; and,

(5) an opportunity to request a hearing within twenty (20) days of the mailing of the determination notice

#### ***Section 4 Opportunity to be Heard/Conduct of Hearings***

(A) If the Notary Public does not request a hearing within twenty (20) days of the mailing of the notice of determination, any and all sanctions shall be imposed and become effective on the twenty-first (21) day after the mailing and the right to a hearing shall be considered waived.

(B) If the Notary Public requests a hearing within twenty (20) days, the request shall establish a Contested Case, which shall then be conducted in accordance with the Department's Office of Administrative Hearings Rules and Regulations ("Administrative Rules") Erlid# 5238. After a fair hearing and consideration, the hearing officer shall issue a written decision to the Director for her/his consideration and adoption thereof. The Director shall issue her/his final written order which shall be sent by regular or certified mail, postage pre-paid, to the Respondent, with a copy to the Complainant.

**Section 5 *Judicial Review***

Any Party aggrieved by a final written order of the Director may file a complaint with the Superior Court pursuant to RIGL § 42-35-15. In the absence of a timely appeal, the order or decision of the Director shall become final from which no further administrative appeal may be taken; and, a copy of the final order shall be provided to the Office of the Secretary of State for such as action as is consistent with the final order.

**Section 6 *Severability***

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.

**Section 7 *Effective Date***

This Regulation shall be effective upon adoption pursuant to the Rhode Island Administrative Procedures Act.