

22104580D

SENATE BILL NO. 765

Offered January 21, 2022

A BILL to amend and reenact §§ 2.2-409, 2.2-2801, 17.1-275, 47.1-2 through 47.1-5, 47.1-8, 47.1-9, 47.1-12, 47.1-14 through 47.1-16, 47.1-18, 47.1-19, 47.1-24, 47.1-26, 47.1-27, 47.1-28, and 47.1-30 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 47.1-5.2, 47.1-8.1, 47.1-14.1, 47.1-14.2, 47.1-16.1, 47.1-26.1, and 47.1-27.1, and to repeal § 47.1-5.1 of the Code of Virginia, relating to notaries.

Patron—Ebbin

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-409, 2.2-2801, 17.1-275, 47.1-2 through 47.1-5, 47.1-8, 47.1-9, 47.1-12, 47.1-14 through 47.1-16, 47.1-18, 47.1-19, 47.1-24, 47.1-26, 47.1-27, 47.1-28, and 47.1-30 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 47.1-5.2, 47.1-8.1, 47.1-14.1, 47.1-14.2, 47.1-16.1, 47.1-26.1, and 47.1-27.1 as follows:

§ 2.2-409. Secretary of the Commonwealth.

A. The Secretary of the Commonwealth shall charge the following fees for services rendered in his office to be paid by the person for whom the service is rendered at the time it is done:

For a testimonial, including seal tax.....	\$10.00
For each authentication after the first testimonial for documents bearing the testament by the same person on the same date, including seal tax..	5.00
For a copy of any paper, if on one sheet.....	1.00
And for each sheet after the first.....	.75
For issuing a commission to a commissioner in another state.....	7.00
For power of attorney for nonresident insurers, contractors.....	3.00
For service of process on parties, each defendant.....	19.00
For service of process on reciprocal insurers.....	7.00
For registration of name, badge, and insignia.....	7.50
For affixing the Seal of the Commonwealth.....	2.00
For issuing a commission to a notary for the Commonwealth at large, including seal tax public.....	35.00
For issuing a commission to an electronic notary public.....	35.00
For providing a course of instruction, written examination, or both required to be completed by a notary public or electronic notary public	10.00
For providing a permit to manufacture or sell notary seals	150.00

And for filing in his office any paper required by law to be filed, the same fee as is allowed by law for recording similar papers.

B. Notwithstanding any other provision of law, the Secretary shall charge a technology fee of \$10 in addition to the fees set out in subsection A for commissioning of a notary public or electronic notary public, which funds shall be deposited into the Secretary of the Commonwealth's Technology Trust Fund established by the comptroller and used only to obtain and update office automation and information technology equipment, including software and conversion services; to preserve, maintain, and enhance records, including but not limited to the costs of repairs, maintenance, service contracts, and system upgrades; to provide systems for courses of instruction or written examination required of notaries; and to improve public access to records. There shall be no transfers out of the fund, including transfers to the general fund.

§ 2.2-2801. Disability to hold state office; exceptions.

A. Section 2.2-2800 shall not be construed to prevent:

1. Members of Congress from acting as visitors of the University of Virginia or the Virginia Military Institute, or from holding offices in the militia;

2. United States commissioners or United States census enumerators, supervisors, or the clerks under the supervisor of the United States census, or fourth-class or third-class postmasters, or United States caretakers of the Virginia National Guard, from acting as notaries, school board selection commission members, or supervisors, or from holding any district office under the government of any county, or the office of councilman of any town or city in the Commonwealth;

3. Any United States rural mail carrier, or star route mail carrier from being appointed and acting as notary public or holding any county or district office;

4. Any civilian employee of the United States government person who otherwise meets the

INTRODUCED

SB765

60 *requirements of Title 47.1* from being appointed and acting as a notary public;

61 5. Any United States commissioners or United States park commissioners from holding the office of
62 commissioner in chancery, bail commissioner, jury commissioner, commissioner of accounts, assistant
63 commissioner of accounts, substitute or assistant civil justice, or assistant judge of a municipal court of
64 any city or assistant judge of a juvenile and domestic relations district court of any city, or judge of any
65 county court or juvenile and domestic relations district court of any county, or the municipal court or
66 court of limited jurisdiction, by whatever name designated, of any incorporated town;

67 6. Any person employed by, or holding office or a post of profit, trust, or emolument, civil,
68 legislative, executive, or judicial, under the government of the United States; from being a member of
69 the militia or holding office therein, or from being a member or director of any board, council,
70 commission, or institution of the Commonwealth who serves without compensation except one who
71 serves on a per diem compensation basis;

72 7. Foremen, quartermen, leading men, artisans, clerks, or laborers; employed in any navy yard or
73 naval reservation in Virginia from holding any office under the government of any city, town, or county
74 in the Commonwealth;

75 8. Any United States government clerk from holding any office under the government of any town or
76 city;

77 9. Any person holding an office under the United States government from holding a position under
78 the management and control of the State Board of Health;

79 10. Any state federal director of the Commonwealth in the employment service of the United States
80 Department of Labor from holding the office of Commissioner of Labor *and Industry* of the
81 Commonwealth;

82 11. Clerks and employees of the federal government engaged in the departmental service in
83 Washington from acting as school trustees;

84 12. Any person, who is otherwise eligible, from serving as a member of the governing body or
85 school board of any county, city, or town, or as a member of any public body who is appointed by such
86 governing body or school board, or as an appointive officer or employee of any county, city, or town or
87 the school board thereof;

88 13. Game management agents of the United States Fish and Wildlife Service or United States deputy
89 game wardens from acting as special conservation police officers;

90 14. Any appointive state or local official or employee from serving, with compensation, on an
91 advisory board of the federal government;

92 15. Any state or local law-enforcement officer from serving as a United States law-enforcement
93 officer; however, this subdivision shall not be construed to authorize any law-enforcement officer to
94 receive double compensation;

95 16. Any United States law-enforcement officer from serving as a state or local law-enforcement
96 officer when requested by the chief law-enforcement officer of the subject jurisdiction; however, this
97 subdivision shall not be construed to authorize any law-enforcement officer to receive double
98 compensation;

99 17. Any attorney for the Commonwealth or assistant attorney for the Commonwealth from serving as
100 or performing the duties of a special assistant United States attorney or assistant United States attorney;
101 however, this subdivision shall not be construed to authorize any attorney for the Commonwealth or
102 assistant attorney for the Commonwealth to receive double compensation;

103 18. Any assistant United States attorney from serving as or performing the duties of an assistant
104 attorney for the Commonwealth when requested by the attorney for the Commonwealth of the subject
105 jurisdiction; however, this subdivision shall not be construed to authorize any assistant United States
106 attorney to receive double compensation;

107 19. Any elected state or local official from serving, without compensation, on an advisory board of
108 the federal government; however, this subdivision shall not be construed to prohibit reimbursement for
109 actual expenses;

110 20. Sheriffs' deputies from patrolling federal lands pursuant to contracts between federal agencies and
111 local sheriffs;

112 21. State judicial officers from performing acts or functions with respect to United States criminal
113 proceedings when such acts or functions are authorized by federal law to be performed by state judicial
114 officers; or

115 22. Any member of the Armed Forces of the United States from serving on the Virginia Military
116 Advisory Council or the Virginia Offshore Wind Development Authority.

117 B. Nor shall § 2.2-2800 be construed to exclude:

118 1. A person to whom a pension has been granted by the United States or who receives retirement
119 compensation in any manner from the United States, or any person receiving or entitled to receive
120 benefits under the Federal Old-Age and Survivors' Insurance System or under the Federal Railroad
121 Retirement Act.

2. Officers or soldiers on account of the recompense they may receive from the United States when called out in actual duty.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$18 for an instrument or document consisting of 10 or fewer pages or sheets; \$32 for an instrument or document consisting of 11 to 30 pages or sheets; and \$52 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than ~~eight and one-half~~ 8.5 inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$17 per page or sheet shall be charged with respect to plat or map sheets larger than ~~eight and one-half~~ 8.5 inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. Three dollars and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage pursuant to § 20-25, \$25 to be paid by the petitioner.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

8. For making out a copy of any paper, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies authorized under this section shall include costs included in the lease and maintenance agreements for the equipment and the technology needed to operate electronic systems in the clerk's office used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

12. Upon the defendant's being required to successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's

183 fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in
184 cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery
185 exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding
186 \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established
187 under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation
188 case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in
189 any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of
190 a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be
191 collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be
192 applicable to cases filed in the Supreme Court of Virginia.

193 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
194 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the
195 time of filing the petition.

196 14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by
197 confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or
198 certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the
199 amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering
200 judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as
201 prescribed in subdivision A 17.

202 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
203 administering the necessary oaths, and entering the order, \$10; *and for recording and indexing a journal*
204 *of notarial acts, \$10.*

205 16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required
206 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

207 17. For docketing and indexing a judgment from any other court of the Commonwealth, for
208 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
209 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
210 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper
211 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee
212 of \$20.

213 18. For all services rendered by the clerk in any court proceeding for which no specific fee is
214 provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of
215 filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the
216 entry of a decree of divorce from the bond of matrimony.

217 19, 20. [Repealed.]

218 21. For making the endorsements on a forthcoming bond and recording the matters relating to such
219 bond pursuant to the provisions of § 8.01-529, \$1.

220 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

221 23. For preparation and issuance of a subpoena duces tecum, \$5.

222 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
223 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to
224 a divorce.

225 25. For providing court records or documents on microfilm, per frame, \$0.50.

226 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one
227 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be
228 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to
229 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly
230 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the
231 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged
232 for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any
233 other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce
234 cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a
235 vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such
236 decrees.

237 27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees,
238 including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the
239 person presenting such credit or debit card a reasonable convenience fee for the processing of such
240 credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the
241 transaction or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic
242 filing of civil or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to
243 prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party
244 private vendor engaged by the clerk. Convenience fees shall be used to cover operational expenses as

defined in § 17.1-295.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any reason, the clerk may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Virginia Birth Father Registry Fund pursuant to § 63.2-1249.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of \$20.

33. [Repealed.]

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55.1-653 et seq.), the fees shall be as prescribed in that Act.

35. [Repealed.]

36. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

37. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

38. For lodging, indexing, and preserving a will in accordance with § 64.2-409, a fee of \$5.

39. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

40. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

41. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

42. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

43. For issuing any execution, and recording the return thereof, a fee of \$1.50.

44. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44 43.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

§ 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" or "oath" means a notarial act, or part thereof, that is legally equivalent to an oath and

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

310 "Commissioned notary public" means ~~that the applicant~~ *a person who* has completed and submitted
311 the registration forms along with the appropriate fee to the Secretary of the Commonwealth and *whom*
312 the Secretary of the Commonwealth has determined ~~that the applicant~~ meets the qualifications to be a
313 notary public and issues a notary commission and forwards same to the clerk of the circuit court,
314 pursuant to this chapter.

315 "Copy certification" means a notarial act in which a notary (i) is presented with a document that is
316 not a ~~public record~~ *an original or a copy of a document in the custody of a court*; (ii) ~~copies or~~
317 ~~supervises the copying of the document using a photographic or electronic copying process~~; (iii)
318 ~~compares the document to the copy~~; and (iv) ~~determines that the copy is accurate and complete~~
319 *compares the document with a second paper or electronic document that is (a) presented to the notary,*
320 *(b) located by the notary, or (c) copied from the first document by the notary; and (iii) confirms*
321 *through a visual or electronic comparison that the second document is an identical, exact, and complete*
322 *copy of the image or text, and, if applicable, metadata, of the first document.*

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

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

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

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

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

336 "Electronic notarial act" or "electronic notarization" means an official act by a notary under § 47.1-12
337 or as otherwise authorized by law that involves electronic documents.

338 "Electronic notarial certificate" means the portion of a notarized electronic document that is
339 completed by the notary public, bears the notary public's signature, title, commission expiration date, and
340 other required information concerning the date and place of the electronic notarization, and states the
341 facts attested to or certified by the notary public in a particular notarization. The "electronic notarial
342 certificate" shall indicate whether the notarization was done in person or by remote online notarization.

343 "Electronic notary public" or "electronic notary" means a notary public who has been commissioned
344 by the Secretary of the Commonwealth with the capability of performing electronic notarial acts under
345 § 47.1-7.

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

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

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

354 "*Journal of notarial acts*" or "*journal*" means a book used by a notary to create and preserve a
355 *chronological record of the notarial acts the notary has performed.*

356 "*Jurat*" means a notarial act in which an individual at a single time and place (i) appears in person
357 before the notary and presents a document; (ii) is personally known to the notary or identified by the
358 notary through satisfactory evidence; (iii) signs the document in the presence of the notary; and (iv)
359 takes an affirmation or oath from the notary confirming the truthfulness or accuracy of the signed
360 document.

361 "Notarial act" or "notarization" means any official act performed by a notary under § 47.1-12 or
362 47.1-13 or as otherwise authorized by law.

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

367 "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, or a notary's performance of an official act or duty in a manner that is negligent, contrary to established norms of sound notarial practice, or against the public interest.

"Official signature" means a handwritten signature made by a notary that uses the exact name appearing in the notary's commission and is signed with the intent to perform a notarial act.

"Personal appearance before the notary" or "appears in person before the notary" means that the notary can sufficiently see, hear, communicate with, and receive identification documents from a principal and any required witness. Each principal or required witness shall present satisfactory evidence of identity and, other than in the case of electronic notarization, shall be in the physical presence of the notary.

"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, other than a journal, for creating and preserving a chronological record of notarizations performed by a notary.

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

"Satisfactory evidence of identity" means identification of an individual based on (i) examination of one or more of the following unexpired documents bearing a photographic image of the individual's face and signature: a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card or (ii) the oath or affirmation of one credible witness unaffected by the document or transaction who is personally known to the notary and who personally knows the individual or of two credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in clause (i). In the case of an individual who resides in an assisted living facility, as defined in § 63.2-100, or a nursing home, licensed by the State Department of Health pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 or exempt from licensure pursuant to § 32.1-124, an expired United States Passport Book, expired United States Passport Card, expired foreign passport, or expired state issued driver's license or state issued identification card may also be used for identification of such individual, provided that the expiration of such document occurred within five years of the date of use for identification purposes pursuant to this title. In the case of an electronic notarization, "satisfactory evidence of identity" may be based on video and audio conference technology, in accordance with the standards for electronic video and audio communications set out in subdivisions B 1, 2, and 3 of § 19.2-3.1, that permits the notary to communicate with and identify the principal at the time of the notarial act, provided that such identification is confirmed by (a) personal knowledge, (b) an oath or affirmation of a credible witness, or (c) at least two of the following: (1) credential analysis of an unexpired government-issued identification bearing a photograph of the principal's face and signature, (2) identity proofing by an antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge Certification Authority, (3) another identity proofing method authorized in guidance documents, regulations, or standards adopted pursuant to § 2.2-436, or (4) a valid digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification card that is designed, issued, and managed in accordance with the specifications published by the National Institute of Standards and Technology in Federal Information Processing Standards Publication 201-1, "Personal Identity Verification (PIV) of Federal Employees and Contractors," and supplements thereto or revisions thereof, including the specifications published by the Federal Chief Information Officers Council in "Personal Identity Verification Interoperability for Non-Federal Issuers."

"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.

"Signature witnessing" 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; and (iii) signs the document in the presence of the notary.

"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.

§ 47.1-3. Power of appointment.

The Governor may appoint in and for the Commonwealth as many notaries as to ~~him~~ *the Governor* shall seem proper. ~~Any No person who acts shall act~~ as a notary in the Commonwealth ~~shall register with and be without having been~~ commissioned by the Secretary of the Commonwealth and otherwise ~~be being~~ in compliance with the provisions of this title.

§ 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 *Virginia or a legal resident of the United States; who is regularly employed in Virginia*; (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 have completed a course of instruction and written examination required by this title; and~~ (vi) 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.~~

§ 47.1-5. Application.

A. No person shall be commissioned ~~or recommissioned~~ as a notary public or electronic notary public pursuant to this title until he submits ~~an~~ *the applicable* 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.

B. *The application shall include (i) the applicant's date of birth; (ii) the applicant's residence address and telephone number; (iii) the applicant's business address and telephone number, the business mailing address, if different, and the name of the applicant's employer, if any; (iv) a declaration that the applicant is a legal resident of Virginia, or a legal resident of the United States who is regularly employed in Virginia; (v) a declaration that the applicant can read and write English; (vi) a list of all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission, professional license, or public office involving the applicant in this or any other jurisdiction; (vii) a list of all felony convictions of the applicant, including any pleas of admission or nolo contendere, in this or any other state or nation, with any pardons, vacated convictions, or restorations of rights noted; (viii) a list of all claims pending or disposed against any notary bond previously or currently held by the applicant; and (ix) a list of all civil findings or admissions of fault or liability regarding the applicant's activities as a notary, in this or any other jurisdiction.*

C. The Secretary may accept applications by ~~electronic~~ *any means, provided electronic 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 subsection A.*

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

E. *To the extent such facts become known to the Secretary, the Secretary may deny an application based on (i) failure to meet the qualifications to be a notary public; (ii) submission of an official application containing material misstatement or omission of fact; (iii) a finding or admission of liability against the applicant in a civil lawsuit based on the applicant's deceit; (iv) revocation, suspension, restriction, or denial of a notarial commission or professional license by this or any other state or nation, but in no case may a commission be issued to the applicant within five years after such disciplinary action; or (v) an official finding that the applicant had engaged in official misconduct, whether or not disciplinary action resulted. Denial of an application may be appealed by filing in proper form with the Secretary within 60 days after denial, except that an applicant may not appeal when the Secretary within five years prior to the application has (a) denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant or (b) made a finding under this title that grounds for revocation of the applicant's commission existed.*

§ 47.1-5.2. Course and examination.

A. Every applicant for a notary or electronic notary commission shall take, within the 90 calendar days preceding application, a course of instruction approved by the Secretary and complete a written examination of the course to the satisfaction of the Secretary.

B. *The content of the course and the basis for the written examination shall include notarial laws,*

procedures, and ethics.

§ 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~~ *that* 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 *continue to act* as a notary public in all respects upon being commissioned as an electronic notary public.

§ 47.1-8.1. Bond.

A. Before receiving his commission, a notary or electronic notary shall obtain a bond of \$25,000, executed by a licensed surety, for a term commencing on the commission's effective date and terminating on its expiration date, with payment of bond funds to any person conditioned upon the notary's official misconduct.

B. The surety for a bond issued to any notary or electronic notary in Virginia shall report all claims against the bond to the Secretary.

C. If a notary bond has been exhausted by claims paid out by the surety, the Secretary shall suspend the notary or electronic notary's commission until (i) a new bond is obtained by the notary and (ii) the notary or electronic notary's fitness to serve the remainder of the commission term is determined by the Secretary.

§ 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~~ *satisfactory* evidence of identity as defined in § 47.1-2, *present satisfactory evidence of the bond required by* § 47.1-8.1, and make oath or affirmation 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~~ *The applicant's appearance before the clerk may be made physically or by the use of any electronic means by which the clerk can sufficiently see, hear, communicate with, and review documents from the applicant. The 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, along with the amount and surety of the bond.*

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~~ *that* have not been claimed within such 60-day period, and the Secretary shall forthwith cancel the same.

§ 47.1-12. Powers.

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

§ 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.

A notary may certify the affixation of a signature by mark by a principal on a document presented for notarization if (i) the mark is affixed in the presence of the notary and two witnesses disinterested in the document; (ii) both witnesses sign their own names beside the mark; (iii) the notary writes below the mark: "Mark affixed by (name of signer by mark) in the presence of (names and addresses of two witnesses) and the undersigned notary pursuant to law."; and (iv) the notary notarizes the signature by mark through an acknowledgment, jurat, or signature witnessing.

D. A notary may sign the name of a principal physically unable to sign or make a mark on a document presented for notarization if (i) the principal directs the notary to do so in the presence of two witnesses disinterested in the document; (ii) the notary signs the principal's name in the presence of the principal and the witnesses; (iii) both witnesses sign their own names beside the signature; (iv) the notary writes below the signature: "Signature affixed by the notary at the direction and in the presence of (name of principal unable to sign or make a mark) and also in the presence of (names and addresses of two witnesses) pursuant to law."; and (v) the notary notarizes the signature through an acknowledgment, jurat, or signature witnessing.

§ 47.1-14.1. Journal of notarial acts.

A. A notary shall keep, maintain, protect, and provide for lawful inspection a chronological journal of notarial acts that is a permanently bound book with numbered pages. A notary shall maintain only one active journal at the same time.

B. For each notarial act, the notary shall record in the journal at the time of notarization at least (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 signature, printed name, and address of each principal; (v) the printed name and address of each requester of fact; (vi) 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, its issuing agency, its serial or identification number, and its date of issuance or expiration; or the handwritten signature and the name and address of each credible witness swearing or affirming to the principal's identity, and for credible witnesses who are not personally known to the notary, a description of the identification documents relied on by the notary; (vii) the amount of the fee, if any, charged for the notarial act, related travel, or both; and (viii) the address and city or county where the notarization was performed.

C. A notary shall record in the journal (i) the circumstances for not performing or completing any requested notarial act; (ii) the circumstances of any permitted or refused request to inspect or copy an entry in the journal, including the requester's name, address, handwritten signature, and evidence of identity; and (iii) a notation of the nature and date of the notary's correction of a previously completed notarial certificate, which shall be appended to the pertinent previous entry.

D. A notary shall not record a Social Security or credit card number in any journal.

E. In the notary's presence, any person may inspect and request a copy of an entry or entries in the notary's official journal during regular business hours, but only if (i) the person's identity is personally known to the notary or proven through satisfactory evidence; (ii) the person affixes a signature in the journal in a separate, dated entry; (iii) the person specifies the month, year, type of document, and name of the principal or requester of fact for the notarial act or acts sought; (iv) the person is shown or given a requested copy of only the entry or entries specified; and (v) the other entries on the same

journal page are covered to prevent disclosure. Upon complying with a request for a copy of an entry or entries, the notary may charge not more than \$1 per page, or not more than \$5 for any page provided as part of a copy certification. If the notary has a reasonable and explainable belief that a person bears a criminal or harmful intent in requesting information from the notary's journal, the notary may deny access to any entry or entries. The journal may be examined and copied without restriction or fee by a law-enforcement officer in the course of an official investigation, subpoenaed by court order, or surrendered at the direction of the Secretary.

F. A notary shall safeguard any journal and other notarial records in his custody and surrender or destroy them only by rule of law, by court order, or at the direction of the Secretary. When not in use, each journal shall be kept in a secure area under the exclusive control of the notary and shall not be used by any other notary nor surrendered to an employer during employment or upon termination of employment. Within five calendar days after any journal is discovered to be stolen, lost, destroyed, damaged, or otherwise rendered unusable or unreadable, the notary, after informing the appropriate law-enforcement agency in the case of theft or vandalism, shall notify the Secretary by any means providing a tangible receipt, including certified mail and electronic transmission, and also provide a copy or identification number of any pertinent police report.

G. Upon resignation or revocation of a commission, or expiration of a commission without immediate recommission, or death of the notary, the journal and notarial records shall be filed with the clerk of the circuit court for the city or county where the journal was last located.

§ 47.1-14.2. Electronic record of notarial acts.

A. 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.

B. 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.

C. 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.

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

E. 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.

§ 47.1-15. Prohibitions.

A. 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. Provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notary's presence.

3. Notarize a signature on a blank or incomplete document, or on a document without notarial certificate wording.

4. Certify or authenticate a photograph, other than as a copy certification as permitted by this title.

5. Use the official notary title or seal to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering.

3- 6. 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- 7. Affix an official signature or seal on a notarial certificate that is incomplete, *or which the notary knows or believes includes false information.*

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

C. A notary shall not perform any official act in which a principal or witness (i) does not appear to understand the nature of the transaction requiring the official act; (ii) does not appear to be acting of his own free will; or (iii) speaks, writes, or signs in letters, characters, or language not understood by both the principal or witness and the notary.

D. A nonattorney notary shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act. *Unless a notary believes a transaction is unlawful, a notary shall not influence or attempt to influence a person either to enter into or avoid a transaction involving a notarial act by the notary. A notary commission shall not authorize the notary to investigate, ascertain, or attest to the lawfulness, propriety, accuracy, or truthfulness of a document or transaction involving a notarial act, other than to the extent a reasonable person would be aware of such defects.* 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.~~

E. A notary shall not refuse to perform a notarial act in violation of § 2.2-3904. A notary shall perform any notarial act within his powers for any person requesting such an act, unless (i) the notary knows or has a reasonable belief that the notarial act or the associated transaction is unlawful under this title or any other law; (ii) the number, location, or timing of the requested notarial act or acts practicably precludes completion at the time of the request, in which case the notary shall arrange for later completion of the requested act or acts, without unreasonable delay, at a location and time consistent with the notary's usual practices; or (iii) the person fails to tender any fee charged for the notarial act and permitted by this title. A notary may but is not required to perform a notarial act outside of the notary's regular workplace or business hours.

F. Any document notarized prior to July 1, 2008, ~~which~~ that 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.

§ 47.1-15.1. Additional prohibition on advertising; civil penalties.

A. A notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide.

B. 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- C.~~ C. 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. A nonattorney notary who advertises notarial services in a language other than English shall include in the advertisement, notice, letterhead, or sign the following prominently displayed in the same language: (i) the statement: "I am not an attorney and have no authority to give advice on immigration or other legal matters" and (ii) any fees for notarial acts charged by the notary and permitted by this title.

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

§ 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. Every electronic notarial certificate shall include the county or city within the Commonwealth where the electronic notary public was physically located at

the time of the notarial act. The electronic notarial certificate shall indicate whether the notarization was done in person or by remote online notarization.

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 that is the subject of a notarial act, the notary shall, after his certificate, state the date of the expiration of his commission in substantially the following form:

"My commission expires the ____ day of _____, ____"

Near the notary's official signature on the notarial certificate of a paper document, the notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal, or, to an electronic document, the notary shall attach an official electronic seal. *The image shall not be affixed over printed or written matter, but a document with such overlap shall not be invalid as long as it remains fully legible. An embossed seal impression that is not photographically reproducible may be used in addition to but not in place of the image of the official seal described in this subsection.*

D. The notary shall attach the official electronic signature and electronic 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. An electronic notary's electronic signature and electronic seal shall conform to the standards for electronic notarization developed in accordance with § 47.1-6.1.

F. A paper notarial certificate that is attached to a document during the notarization of the signature of a principal shall (i) be attached by stapling or other method that leaves evidence of any subsequent detachment; (ii) be attached, signed, and sealed only by the notary and only at the time of notarization and in the presence of the principal; (iii) be attached immediately following the signature page if the certificate is the same size as that page, or to the front of the signature page if the certificate is smaller; and (iv) contain all required elements on the same sheet of paper.

G. A notary may correct an error or omission made by that notary in a notarial certificate if (i) the original certificate and document are returned to the notary; (ii) the notary verifies the error by reference to the pertinent journal entry, the document itself, or to other determinative written evidence; (iii) the notary legibly corrects the certificate and initials and dates the correction in ink, or replaces the original certificate with a correct certificate; and (iv) the notary appends to the pertinent journal entry a notation regarding the nature and date of the correction.

§ 47.1-16.1. Official seals; penalty.

A. The official seal of a notary public shall not be used for any purpose other than performing lawful notarizations.

B. The official seal shall (i) be the exclusive property of the notary; (ii) not be affixed by any other person; (iii) be kept secure and accessible only to the notary; and (iv) not be surrendered to an employer during employment or upon termination of employment.

C. Within five calendar days after the official seal of a notary is discovered to be stolen, lost, damaged, or otherwise rendered incapable of affixing a legible image, the notary, after informing the appropriate law-enforcement agency in the case of theft or vandalism, shall notify the Secretary by any means providing a tangible receipt, including certified mail and electronic transmission, and also provide a copy or number of any pertinent police report.

D. As soon as reasonably practicable after resignation or revocation of a notary commission, or expiration of a commission without immediate recommission, or death of the notary, the seal shall be destroyed or defaced so that it may not be misused.

E. In order to sell or manufacture notary seals, a vendor or manufacturer shall apply for a permit from the Secretary, on a form prescribed by the Secretary. A vendor or manufacturer shall not provide a notary seal to a purchaser claiming to be a notary, unless (i) the purchaser presents a copy of a current notary commission; (ii) in the case of a purchaser appearing in person, the vendor or manufacturer identifies the purchaser as the person named in the commission, through either personal knowledge or satisfactory evidence of identity; or (iii) in the case of a purchaser ordering a seal by mail or delivery service, the vendor or manufacturer confirms the mailing address and current standing of the purchase through a controlled-access Internet site provided by the Secretary. A vendor or manufacturer shall mail or ship a notary seal only to a mailing address confirmed through the controlled-access Internet site. After manufacturing or providing a notary seal or seals, the vendor shall affix an image of all seals on paper and send a copy to the Secretary, retaining the original paper and copy of related commission for four years. A vendor or manufacturer who fails to comply with this subsection is guilty of a Class 1 misdemeanor. For multiple violations, the Secretary shall revoke a vendor's permit. Such revocation shall not preclude the civil liability of the vendor to parties injured by the vendor's failure to comply with this section.

§ 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

798 *and the bond surety of the fact by mailing or delivering a written notice which shall contain the new*
799 *address, or in electronic format as in the manner the Secretary and the bond surety may each prescribe.*

800 B. Any notary who is commissioned as a nonresident of Virginia shall notify the Secretary of the
801 Commonwealth and the bond surety of any change in his place of employment in the manner the
802 Secretary and the bond surety may each prescribe.

803 **§ 47.1-19. Fees.**

804 A. A notary may, for taking and certifying the acknowledgment of any writing, or administering and
805 certifying an oath, or certifying affidavits and depositions of witnesses, or certifying that a copy of a
806 document is a true copy thereof, For each power a notary or electronic notary exercises pursuant to
807 § 47.1-12, the notary or electronic notary may charge a fee of up to \$5 or up to \$25 if the act is
808 performed electronically by an electronic notary. A notary or electronic notary who charges for notarial
809 services shall conspicuously display an English-language schedule of fees for notarial acts, in at least
810 10-point type, at any place his notarial acts are typically performed or present such schedule to a
811 principal if no such notice is displayed nearby.

812 B. A notary may, for taking and certifying the acknowledgement of any electronic document, or
813 administering and certifying an oath or affirmation, or certifying electronic affidavits and depositions of
814 witnesses, or certifying that a copy of an electronic document is a true copy thereof, charge a fee not to
815 exceed \$25. No officer, agent, employee, or volunteer of the Commonwealth or its political subdivisions
816 who is a notary or electronic notary shall charge any fee for an act performed in the course of his
817 public duties.

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

822 D. It shall be unlawful for any notary to charge more than the fee established herein for any notarial
823 act; however, a notary may recover, with the agreement of the person to be charged, any actual and
824 reasonable expense of traveling to a place where a notarial act is to be performed if it is not the usual
825 place in which the notary performs his office. A notary may charge a travel fee when traveling to
826 perform a notarial act if (i) the notary and the person paying the travel fee agree upon the travel fee in
827 advance of the travel and (ii) the notary explains to the person paying the travel fee that the travel fee
828 is separate from any notarial fee to be charged and is neither specified nor mandated by law.

829 E. A notary may require payment of any fees permitted by this title prior to performance of a
830 notarial act. Any fees paid to a notary prior to performance of a notarial act are nonrefundable if (i)
831 the act was completed or (ii) in the case of travel fees paid in compliance with this section, the act was
832 not completed after the notary traveled to meet the principal because the notary knew or had a
833 reasonable belief that the notarial act or the associated transaction was unlawful. Any fees paid to a
834 notary prior to performance of a notarial act must be promptly refunded if (a) the act was not correctly
835 completed pursuant to this title by virtue of the notary's error or (b) the act was abandoned by the
836 notary without cause.

837 **§ 47.1-24. Removal of notary by administrative process; surrender of commission; penalty.**

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

841 B through D. [Repealed.]

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

847 F. Upon being notified that an evidentiary proceeding has been initiated under this section, the notary
848 who is the subject of such a proceeding shall forthwith cease to serve as a notary for a period of ~~sixty~~
849 60 days, or until his case has been decided, whichever period ~~shall be~~ is shorter. If the Secretary finds
850 that grounds for removal exist, such notary shall be further suspended from serving as a notary until the
851 Secretary has made a final disposition of the case under subsection E of this section; however, no
852 notarial act shall be deemed invalid solely by reason of having been performed by a notary who has
853 been suspended pursuant to this subsection.

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

857 H. [Repealed.]

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

J. Nothing in this section shall be construed so as to prohibit the Secretary from delivering a written official warning to cease misconduct to any notary or electronic notary whose actions the Secretary judges to be official misconduct or to prohibit the Secretary from seeking a court order to prevent a person from violating any provision of this title or compel a person to comply with any provision of this title.

K. The Secretary shall regularly publish on a public internet site a list of persons whose notary commissions have been revoked or whose actions as a notary or electronic notary were the subject of a court injunction or official warning to cease misconduct.

§ 47.1-26. Civil liability of notary.

A notary public shall be or electronic notary is liable to any person for all damages proximately caused by his the notary's negligence, intentional violation of law, or official misconduct in relation to a notarization.

§ 47.1-26.1. Civil liability of bond surety.

A surety for a notary's bond is liable to any person for damages proximately caused that person by the notary's negligence, intentional violation of law, or official misconduct in relation to a notarization during the bond term, but this liability may not exceed the dollar amount of the bond or of any remaining bond funds that have not been disbursed to other claimants. Regardless of the number of claimants against the bond or the number of notarial acts cited in the claims, a surety's aggregate liability shall not exceed the dollar amount of the bond.

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

The A. An employer of a notary public shall also be is liable to any person for all damages proximately caused by the notary's negligence, intentional violation of law, or 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 in performing a notarization during the course of employment, if the employer directed, expected, encouraged, approved, or tolerated the notary's negligence, violation of law, or official misconduct either in the particular transaction or, impliedly, by the employer's previous action in at least one similar transaction involving any notary employed by the employer.

B. An employer of a notary is liable to the notary for all damages recovered from the notary as a result of any violation of law by the notary that was coerced by threat of the employer, if the threat, such as of demotion or dismissal, was made in reference to the particular notarization or, impliedly, by the employer's previous action in at least one similar transaction involving any notary employed by the employer. In addition, the employer is liable to the notary for damages caused the notary by demotion, dismissal, or other action resulting from the notary's refusal to engage in a violation of law or official misconduct.

C. Notwithstanding any other provision in this title, for the purposes of this section "negligence" shall not include any good-faith determination made by the notary that a principal or witness did not appear to understand the nature of the transaction requiring a notarial act, or did not appear to be acting of his own free will.

§ 47.1-27.1. Proximate cause.

Recovery of damages against a notary, surety, or employer under this title does not require that the notary's negligence, violation of law, or official misconduct be either the sole or principal proximate cause of the damages.

§ 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 is guilty of a Class 3 misdemeanor.

B. Any employer of a notary person who willfully induces such solicits, coerces, or in any way influences a notary or electronic notary to commit official misconduct under Chapter 5 of this title shall be (§ 47.1-24 et seq.) is 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 such person has been convicted of any felony under the laws of this the Commonwealth, of any other state, or of the United States shall be is guilty of a Class 1 misdemeanor.

§ 47.1-30. Conflict of interests.

A. No notary or electronic 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 if the notary or electronic notary (i) is a party to or named in the document that is to be notarized; (ii) will receive as a direct or indirect result any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees permitted by this title to

921 *be collected for performing the act; (iii) is a spouse, domestic partner, ancestor, descendant, or sibling*
922 *of the principal, including in-law, step, and half relatives; or (iv) is an attorney who has prepared,*
923 *explained, or recommended to the principal the document that is to be notarized.*

924 *B. Notwithstanding any other provision of this section, (i) a notary or electronic notary may collect a*
925 *nonnotarial fee for services as a signing agent if payment of that fee is not contingent upon the signing,*
926 *initialing, or notarization of any document and (ii) a notary or electronic notary named in a document*
927 *for the purpose of receiving notices, or named in a document as executor, trustee, or other fiduciary,*
928 *shall not, for that reason alone, be precluded from performing notarial acts with respect to such*
929 *document.*

930 *C. Any notary who violates the provisions of this section shall be is guilty of official misconduct.*

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

934 **2. That § 47.1-5.1 of the Code of Virginia is repealed.**