

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 47.1-2 of the Code of Virginia, relating to notaries; satisfactory*
 3 *evidence of identity; persons residing in nursing homes or assisted living facilities.*

4 [H 1222]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 47.1-2 of the Code of Virginia is amended and reenacted as follows:**8 **§ 47.1-2. Definitions.**

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

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

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

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

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

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

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

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

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

37 "Electronic notarial act" and "electronic notarization" mean an official act by a notary under
 38 § 47.1-12 or as otherwise authorized by law that involves electronic documents.

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

43 "Electronic notary public" or "electronic notary" means a notary public who has been commissioned
 44 by the Secretary of the Commonwealth with the capability of performing electronic notarial acts under
 45 § 47.1-7.

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

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

52 "Notarial act" or "notarization" means any official act performed by a notary under § 47.1-12 or
 53 47.1-13 or as otherwise authorized by law.

54 "Notarial certificate" or "certificate" means the part of, or attachment to, a notarized document that is
 55 completed by the notary public, bears the notary public's signature, title, commission expiration date,
 56 notary registration number, and other required information concerning the date and place of the

57 notarization and states the facts attested to or certified by the notary public in a particular notarization.
58 "Notary public" or "notary" means any person commissioned to perform official acts under the title,
59 and includes an electronic notary except where expressly provided otherwise.

60 "Oath" shall include "affirmation."

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

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

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

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

70 "Satisfactory evidence of identity" means identification of an individual based on (i) examination of
71 one or more of the following unexpired documents bearing a photographic image of the individual's face
72 and signature: a United States Passport Book, a United States Passport Card, a certificate of United
73 States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with
74 photograph, a state issued driver's license or a state issued identification card or a United States military
75 card or (ii) the oath or affirmation of one credible witness unaffected by the document or transaction
76 who is personally known to the notary and who personally knows the individual or of two credible
77 witnesses unaffected by the document or transaction who each personally knows the individual and
78 shows to the notary documentary identification as described in clause (i). *In the case of an individual*
79 *who resides in an assisted living facility, as defined in § 63.2-100, or a nursing home, licensed by the*
80 *State Department of Health pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 or*
81 *exempt from licensure pursuant to § 32.1-124, an expired United States Passport Book, expired United*
82 *States Passport Card, expired foreign passport, or expired state issued driver's license or state issued*
83 *identification card may also be used for identification of such individual, provided that the expiration of*
84 *such document occurred within five years of the date of use for identification purposes pursuant to this*
85 *title. In the case of an electronic notarization, "satisfactory evidence of identity" may be based on video*
86 *and audio conference technology, in accordance with the standards for electronic video and audio*
87 *communications set out in subdivisions B 1, B 2, and B 3 of § 19.2-3.1, that permits the notary to*
88 *communicate with and identify the principal at the time of the notarial act, provided that such*
89 *identification is confirmed by (a) personal knowledge, (b) an antecedent in-person identity proofing*
90 *process in accordance with the specifications of the Federal Bridge Certification Authority, or (c) a valid*
91 *digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification*
92 *card that is designed, issued, and managed in accordance with the specifications published by the*
93 *National Institute of Standards and Technology in Federal Information Processing Standards Publication*
94 *201-1, "Personal Identity Verification (PIV) of Federal Employees and Contractors," and supplements*
95 *thereto or revisions thereof, including the specifications published by the Federal Chief Information*
96 *Officers Council in "Personal Identity Verification Interoperability for Non-Federal Issuers."*

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

99 "Secretary" means the Secretary of the Commonwealth.

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

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