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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- NOTARIES PUBLIC AND JUSTICES OF THE PEACE

Introduced By: Senator Maryellen Goodwin

Date Introduced: March 01, 2018

Referred To: Senate Judiciary

(Secretary of State)

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 42-30 of the General Laws entitled "Notaries Public
2 and Justices of the Peace" is hereby amended to read as follows:

3 ~~CHAPTER 42-30~~

4 ~~Notaries Public and Justices of the Peace~~

5 CHAPTER 42-30

6 JUSTICES OF THE PEACE

7 SECTION 2. Sections 42-30-3, 42-30-4, 42-30-5, 42-30-7, 42-30-10 and 42-30-11 of the
8 General Laws in Chapter 42-30 entitled "Notaries Public and Justices of the Peace" are hereby
9 amended to read as follows:

10 ~~42-30-3. Appointment of notaries and justices~~ **Appointment of justices.**

11 The governor shall appoint ~~as many notaries public for the state, and~~ as many justices of
12 the peace for the several towns and cities, as he or she may deem expedient; and every ~~notary~~
13 ~~public and~~ justice of the peace, so appointed, shall hold office for four (4) years.

14 **42-30-4. Certificate of engagement -- Term of engagement.**

15 (a) Except as otherwise provided, each ~~notary public and~~ justice of the peace shall, at the
16 time of receiving his or her commission, file with the secretary of state a certificate that he or she
17 has been duly engaged thereon, signed by the person before whom the engagement shall have
18 been taken, and the secretary of state shall, at the request of the ~~notary public or~~ justice of the

1 peace and upon payment of the actual cost thereof, issue a wallet-size identification card to such
2 person.

3 (b) The term of engagement for each ~~notary public and~~ justice of the peace shall be for a
4 period of four (4) years.

5 **42-30-5. Application for appointment.**

6 (a) Application. Any individual desiring to be appointed ~~a notary public, or~~ a justice of
7 the peace, shall make written application to the governor over his or her own signature.

8 (b) Qualifications of applicants.

9 (1) Person qualified for a ~~notary public~~ justice of the peace commission shall be at least
10 eighteen (18) years of age and reside legally or conduct business on a regular basis within Rhode
11 Island.

12 (2) The applicant for appointment to the office of ~~notary public or~~ justice of the peace can
13 speak, read, and write the English language and has sufficient knowledge of the powers and
14 duties pertaining to that office.

15 (c) Attorneys and accountants. A member of the Rhode Island bar, and certified public
16 accountants under § 5-3.1-5, shall, regardless of residence, be appointed a ~~notary public~~ justice of
17 the peace upon application and presentment of a certified copy of his or her certificate of
18 admission to the bar or certificate of public accountancy.

19 (d) Any such person making written application to be appointed a ~~notary public or~~ justice
20 of the peace shall, at the time of application, pay to the secretary of state the sum of eighty dollars
21 (\$80.00).

22 **42-30-7. ~~Powers of notaries and justices~~ Powers of justices.**

23 The officers mentioned in §§ 42-30-3 -- 42-30-5, inclusive, shall possess all the powers
24 which now are or hereafter may be conferred by law upon justices of the peace ~~or notaries public.~~

25 **42-30-10. ~~Removal of notaries, justices, and commissioners~~ Removal of justices, and**
26 **commissioners.**

27 Any ~~notary public,~~ justice of the peace or commissioner of deeds, appointed by the
28 governor, may be removed for cause by the governor, in his or her discretion, within the term for
29 which that officer shall have been appointed, after giving to that officer a copy of the charges
30 against him or her and an opportunity to be heard in his or her defense; provided, however, that
31 any ~~notary public,~~ justice of the peace or commissioner of deeds who is convicted of a felony and
32 incarcerated shall have his or her commission revoked. Said ~~notary public,~~ justice of the peace or
33 commissioner of deeds shall not be eligible to apply for a new commission until his or her voting
34 rights are restored pursuant to R.I. Const., Art. II, Sec. 1.

1 **42-30-11. Continuation of powers without reappointment.**

2 Every justice of the peace ~~and notary public~~ appointed by the governor and not
3 reappointed, may continue to officiate for a space of thirty (30) days after the date on which his or
4 her commission expires.

5 SECTION 3. Sections 42-30-8, 42-30-9, 42-30-12, 42-30-13, 42-30-14, 42-30-15 and 42-
6 30-16 of the General Laws in Chapter 42-30 entitled "Notaries Public and Justices of the Peace"
7 are hereby repealed.

8 **~~42-30-8. Powers of notaries.~~**

9 ~~Notaries public may, within this state, act, transact, do, and finish all matters and things~~
10 ~~relating to protests and protesting bills of exchange and promissory notes, and all other matters~~
11 ~~within their office required by law, take depositions as prescribed by law, and acknowledgments~~
12 ~~of deeds and other instruments.~~

13 **~~42-30-9. Lists of appointees -- Certificates of appointment.~~**

14 ~~It shall be the duty of the secretary of state to make a list of all notaries public and~~
15 ~~justices of the peace appointed by the governor and duly qualified, and send a copy thereof to~~
16 ~~each of the clerks of the supreme, superior, and family courts and to the clerks of the district~~
17 ~~courts for the second, third, fourth, ninth, tenth, eleventh, and twelfth judicial districts, to be kept~~
18 ~~in the files of those courts, and the clerks shall, upon application, issue certificates of office to the~~
19 ~~person entitled thereto, and shall receive a fee of one dollar (\$1.00) for every certificate.~~

20 **~~42-30-12. Continuation of powers without new engagement.~~**

21 ~~Every such officer listed in § 42-30-14 who may be reappointed or continued in office,~~
22 ~~may continue to officiate while in office without taking a new engagement.~~

23 **~~42-30-13. Fees of notaries.~~**

24 ~~The fees of notaries public shall be as follows:~~

25 ~~(1) For noting a marine protest, one dollar (\$1.00);~~

26 ~~(2) For drawing and extending a marine protest and recording it, one dollar and fifty cents~~
27 ~~(\$1.50);~~

28 ~~(3) For taking affidavits, twenty five cents (25¢);~~

29 ~~(4) For travel, per mile, ten cents (10¢);~~

30 ~~(5) For taking acknowledgment of any instrument and affixing his seal, one dollar~~
31 ~~(\$1.00);~~

32 ~~(6) For the protest of a bill of exchange, order or draft, for non-acceptance or~~
33 ~~nonpayment, or of a promissory note or check for nonpayment, if the amount thereof is five~~
34 ~~hundred dollars (\$500) or more, one dollar (\$1.00), if it is less than five hundred dollars (\$500);~~

1 ~~for recording the same, fifty cents (50¢);~~

2 ~~(7) For noting the non-acceptance or nonpayment of a bill of exchange, order or draft, or~~
3 ~~the nonpayment of a promissory note or check, seventy five cents (75¢); and~~

4 ~~(8) For each notice of the non-acceptance or nonpayment of a bill, order, draft, check, or~~
5 ~~note, given to a party liable for the payment thereof, twenty five cents (25¢);~~

6 ~~provided, that the whole cost of protest, including necessary notices and the record, shall~~
7 ~~not exceed two dollars (\$2.00), and the whole cost of noting, including notices, shall in no case~~
8 ~~exceed one dollar and twenty five cents (\$1.25).~~

9 ~~**42-30-14. Public officers having notary powers:**~~

10 ~~(a) Every state senator, state representative, member of a city or town council, chief,~~
11 ~~deputy, and assistant clerk of any state court, clerks of the board of canvassers, and worker's~~
12 ~~compensation court, and municipal clerk and the board of canvassers registrar during the period~~
13 ~~for which he or she has been elected or appointed, shall, upon completion of the certificate of~~
14 ~~engagement as set forth in § 42-30-4, have the power to act as a notary public as provided in this~~
15 ~~chapter.~~

16 ~~(b) Two (2) police officers from each state and local police department, as identified in~~
17 ~~writing by the chief of police, shall, upon completion of the certificate of engagement as set forth~~
18 ~~in § 42-30-4, have the power to act as a notary public as provided in this chapter. No office holder~~
19 ~~set forth in this section shall be required to pay the commission fee as provided in § 42-30-5. The~~
20 ~~office holders must complete the certificate of engagement as set forth in § 42-30-4.~~

21 ~~**42-30-15. Fees for authentication of a notary public signature:**~~

22 ~~A fee of five dollars (\$5.00) shall be charged and collected by the secretary of state for~~
23 ~~the authentication or certification of the signature of a notary public. A fee of no more than one~~
24 ~~hundred fifty dollars (\$150) shall be charged and collected by the secretary of state for the~~
25 ~~authentication or certification of the signature(s) of a notary public on all relevant documents~~
26 ~~filed at one time which pertain to the same matter or transaction.~~

27 ~~**42-30-16. Notary public -- Fraud or deceit in office:**~~

28 ~~A notary public, who in the exercise of the powers, or in the performance of the duties of~~
29 ~~such office, shall practice any fraud or deceit, the punishment for which is not otherwise provided~~
30 ~~for by law, shall be guilty of a misdemeanor and fined not more than one thousand dollars~~
31 ~~(\$1,000), or imprisoned not more than one year, or both.~~

32 SECTION 4. Title 42 of the General Laws entitled "STATE AFFAIRS AND
33 GOVERNMENT" is hereby amended by adding thereto the following chapter:

34 [CHAPTER 30.1](#)

1 UNIFORM LAW ON NOTARIAL ACTS

2 **42-30.1-1. Title.**

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

4 **42-30.1-2. Definitions.**

5 For purposes of this chapter, the following definitions apply:

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

10 (2) "Commissioning agency" means the Rhode Island office of the secretary of state.

11 (3) "Commissioning officer" means the governor of the state of Rhode Island.

12 (4) "Electronic" means relating to technology having electrical, digital, magnetic,
13 wireless, optical, electromagnetic, or similar capabilities.

14 (5) "Electronic signature" means an electronic symbol, sound, or process attached to or
15 logically associated with a record and executed or adopted by an individual with the intent to sign
16 the record.

17 (6) "In a representative capacity" means acting as:

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

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

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

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

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

32 (8) "Notarial officer" means a notary public or other individual authorized to perform a
33 notarial act.

34 (9) "Notary public" means an individual commissioned to perform a notarial act by the

1 commissioning officer.

2 (10) "Official stamp" means a physical image affixed to a tangible record or an electronic
3 image attached to or logically associated with an electronic record.

4 (11) "Person" means an individual, corporation, business trust, statutory trust, estate,
5 trust, partnership, limited liability company, association, joint venture, public corporation,
6 government or governmental subdivision, agency, or instrumentality, or any other legal or
7 commercial entity.

8 (12) "Record" means information that is inscribed on a tangible medium or that is stored
9 in an electronic or other medium and is retrievable in perceivable form.

10 (13) "Sign" means, with present intent to authenticate or adopt a record:

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

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

14 (14) "Signature" means a tangible symbol or an electronic signature that evidences the
15 signing of a record.

16 (15) "Stamping device" means:

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

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

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

23 (17) "Verification on oath or affirmation" means a declaration that a statement in a record
24 is true, made by an individual under oath or by affirmation before a notarial officer.

25 **42-30.1-3. Authority to perform notarial act.**

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

28 **42-30.1-4. Requirements for certain notarial acts.**

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

33 (b) A notarial officer who takes a verification of a statement on oath or affirmation shall
34 determine, from personal knowledge or satisfactory evidence of the identity of the individual, that

1 the individual appearing before the notarial officer and making the verification has the identity
2 claimed and that the signature on the statement verified is the signature of the individual.

3 (c) A notarial officer who witnesses or attests to a signature shall determine, from
4 personal knowledge or satisfactory evidence of the identity of the individual, that the individual
5 appearing before the notarial officer and signing the record has the identity claimed.

6 **42-30.1-5. Personal appearance required.**

7 If a notarial act relates to a statement made in or a signature executed upon a record, the
8 individual making the statement or executing the signature shall appear personally before the
9 notarial officer.

10 **42-30.1-6. Identification of individual.**

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

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

16 (1) By means of:

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

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

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

25 **42-30.1-7. Authority to refuse to perform notarial act.**

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

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

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

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

33 **42-30.1-8. Signature if individual unable to sign.**

34 If an individual is physically unable to sign a record, the individual may direct an

1 individual other than the notarial officer to sign the individual's name on the record. The notarial
2 officer shall insert "Signature affixed by (name of other individual) at the direction of (name of
3 individual)" or words of similar import.

4 **42-30.1-9. Notarial act in this state.**

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

7 **42-30.1-10. Notarial act in another state.**

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

11 (1) A notary public of that state;

12 (2) A judge, clerk, or deputy clerk of a court of that state; or

13 (3) Any other individual authorized by the law of that state to perform the notarial act.

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

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

19 **42-30.1-11. Notarial act under federal authority.**

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

23 (1) A judge, clerk, or deputy clerk of a court;

24 (2) An individual in military service or performing duties under the authority of military
25 service who is authorized to perform notarial acts under federal law;

26 (3) An individual designated a notarizing officer by the United States Department of
27 State for performing notarial acts overseas; or

28 (4) Any other individual authorized by federal law to perform the notarial act.

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

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

34 **42-30.1-12. Foreign notarial act.**

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

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

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

10 (d) The signature and official stamp of an individual holding an office described in
11 subsection (c) of this section are prima facie evidence that the signature is genuine and the
12 individual holds the designated title.

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

17 **42-30.1-13. Official stamp.**

18 The official stamp of a notary public must:

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

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

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

26 **42-30.1-14. Notification regarding performance of notarial act on electronic record;**
27 **selection of technology.**

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

32 (b) Before a notary public performs the notary public's initial notarial act with respect to
33 an electronic record, a notary public shall notify the commissioning agency that the notary public
34 will be performing notarial acts with respect to electronic records and identify the technology the

1 notary public intends to use. If the commissioning agency has established standards for approval
2 of technology, such technology must conform to the standards. If the technology conforms to the
3 standards, the commissioning agency shall approve the use of the technology.

4 **42-30.1-15. Commission as notary public; qualifications; no immunity or benefit.**

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

6 (1) A notary public of this state;

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

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

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

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

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

14 (4) Be able to read and write English;

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

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

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

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

29 (1) No notary public set forth in § 42-30.1-15(d) shall be required to pay an application
30 fee. The notaries public set forth in § 42-30.1-15(d) must complete the appropriate oath of office
31 as set forth in § 42-30.1-15(2). The notaries public set forth in § 42-30.1-15(d) who may be
32 reappointed or continued in office, may continue to officiate while in office without taking a new
33 oath of office.

34 (2) Before issuance of a commission as a notary public, an applicant for the commission

1 shall execute an oath of office and submit it to the commissioning agency.

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

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

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

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

12 **42-30.1-16. Grounds to deny, refuse to renew, revoke, suspend, or condition**
13 **commission of notary public.**

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

18 (1) Failure to comply with this chapter;

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

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

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

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

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

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

3 (b) If the commissioning officer denies, refuses to renew, revokes, suspends, or imposes
4 conditions on a commission as a notary public, the applicant or notary public is entitled to timely
5 notice and hearing in accordance with chapter 35 of title 42.

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

9 **42-30.1-17. Database of notaries public.**

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

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

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

15 **42-30.1-18. Prohibited acts.**

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

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

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

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

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

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

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

25 (d) A notary public, other than an attorney licensed to practice law in this state, may not
26 advertise or represent that the notary public may assist persons in drafting legal records, give
27 legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to
28 practice law in this state in any manner advertises or represents that the notary public offers
29 notarial services, whether orally or in a record, including broadcast media, print media, and the
30 Internet, the notary public shall include the following statement, or an alternate statement
31 authorized or required by the commissioning agency, in the advertisement or representation,
32 prominently and in each language used in the advertisement or representation: "I am not an
33 attorney licensed to practice law in this state. I am not licensed to draft legal records, give advice
34 on legal matters, including immigration, or charge a fee for those activities." If the form of

1 advertisement or representation is not broadcast media, print media, or the Internet and does not
2 permit inclusion of the statement required by this subsection because of size, it must be displayed
3 prominently or provided at the place of performance of the notarial act before the notarial act is
4 performed.

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

8 **42-30.1-19. Validity of notarial acts.**

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

16 **42-30.1-20. Fees for authentication of a notary public signature.**

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

24 **42-30.1-21. Notary public – Fraud or deceit in office.**

25 A notary public, who in the exercise of the powers, or in the performance of the duties of
26 such office, shall practice any fraud or deceit, the punishment for which is not otherwise provided
27 for by law, shall be guilty of a misdemeanor and fined not more than one thousand dollars
28 (\$1,000), or imprisoned not more than one year, or both.

29 **42-30.1-22. Notary public commission effect.**

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

34 **42-30.1-23. Savings Clause.**

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

3 **42-30.1-24. Relation to electronic signatures in global and national commerce act.**

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

8 SECTION 5. This act shall take effect on January 1, 2019.

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LC004334/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- NOTARIES PUBLIC AND
JUSTICES OF THE PEACE

- 1 This act would repeal the current state provisions regarding notaries and would adopt an
- 2 adapted version of the "Revised Uniform Law on Notarial Acts."
- 3 This act would take effect on January 1, 2019.

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LC004334/SUB A
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