

RHODE ISLAND GENERAL LAWS

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

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

CHAPTER 18. DEPOSITIONS

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

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

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

CHAPTER 12. ACKNOWLEDGMENTS AND NOTARIAL ACTS

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

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

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

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

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

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

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

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

(iv) A notary public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42-30.1-1. Title.

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

42-30.1-2. Definitions.

For purposes of this chapter, the following definitions apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) “Stamping device” means:

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

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

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

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

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

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

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

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

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

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

42-30.1-5. Personal appearance required.

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

42-30.1-6. Identification of individual.

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

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

(1) By means of:

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

notarial act; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A notary public of that state;

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

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

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

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

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

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

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

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

- (3) An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
- (4) Any other individual authorized by federal law to perform the notarial act.
- (b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (c) The signature and title of an officer described in subsection (a)(1), (a)(2), or (a)(3) of this section conclusively establish the authority of the officer to perform the notarial act.

42-30.1-12. Foreign notarial act.

- (a) In this section, “foreign state” means a government other than the United States of America or a state not including the state of Rhode Island.
- (b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state, the act has the same effect under the law of this state as if performed by a notarial officer of this state.
- (c) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
- (d) The signature and official stamp of an individual holding an office described in subsection (c) are prima facie evidence that the signature is genuine and the individual holds the designated title.
- (e) A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

42-30.1-13. Official stamp.

The official stamp of a notary public must:

- (1) Include the notary public’s name, the words “notary public,” jurisdiction, and other information required by the rules of the commissioning agency; and
- (2) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated;
- (3) This section shall not preclude a notarial officer who is a member of the general assembly in this state from notarizing a document without the use of a stamp on the floor of the general assembly during open session.

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

- (a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.
- (b) Before a notary public performs the notary public’s initial notarial act with respect to an electronic record, a notary public shall notify the commissioning agency that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the commissioning agency has

established standards for approval of technology, the technology must conform to the standards. If the technology conforms to the standards, the commissioning agency shall approve the use of the technology.

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

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

(1) A notary public of this state;

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

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

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

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

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

(4) Be able to read and write English;

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

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

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

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

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

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

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

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

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

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

42-30.1-16. Grounds to deny, refuse to renew, revoke, suspend, or condition

commission of notary public.

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

- (1) Failure to comply with this chapter;
- (2) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the commissioning officer and/or agency;
- (3) A conviction of the applicant or notary public of any crime that involves fraud, dishonesty, or deceit; provided that in determining whether to deny, refuse to renew, revoke, suspend, or condition the commission, the commissioning officer shall consider such factors as the seriousness of the crime; whether the crime relates directly to the training and skills needed for the commission of a notary public; how much time has elapsed since the crime was committed; and the applicant's actions and conduct since the crime was committed;
- (4) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;
- (5) Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have;
- (6) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or
- (7) Termination or revocation of a certificate of admission to the Rhode Island bar or a certificate of public accountancy.

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

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

42-30.1-17. Database of notaries public.

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

- (1) Through which a person may verify the authority of a notary public to perform notarial acts; and
- (2) Which That indicates whether a notary public has notified the commissioning agency that the notary public will be performing notarial acts on electronic records.

42-30.1-18. Prohibited acts.

- (a) A commission as a notary public does not authorize an individual to:
- (1) Assist persons in drafting legal records, give legal advice, or otherwise practice law;
 - (2) Act as an immigration consultant or an expert on immigration matters;
 - (3) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or
 - (4) Receive compensation for performing any of the activities listed in this subsection.
- (b) A notary public may not engage in false or deceptive advertising.
- (c) A notary public, other than an attorney licensed to practice law in this state, may not

use the term “notario” or “notario publico”.

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

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

42-30.1-19. Validity of notarial acts.

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

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

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

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

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

42-30.1-22. Notary public commission effect.

A commission as a notary public in effect on January 1, 2019, continues until its date of

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

42-30.1-23. Savings Clause.

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

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

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

CHAPTER 31. COMMISSIONERS

42-31-1 Appointment of commissioners. – The governor may appoint, in any foreign country, and in any state of the United States, and in any territory of the United States and in the District of Columbia, one or more commissioners, under the seal of the state, to continue in office for the period of five (5) years.

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

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

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

CHAPTER 42-127.1. UNIFORM ELECTRONIC TRANSACTIONS ACT

§ 42-127.1-11 Notarization and acknowledgement. –

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

RHODE ISLAND REGULATIONS DEPARTMENT OF ADMINISTRATION

**RULES OF PRACTICE AND PROCEDURE FOR INVESTIGATING,
PROSECUTING, AND ADJUDICATING ALLEGATIONS AGAINST NOTARIES
PUBLIC**

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Section 1 *Introduction, Scope, Applicability and Authority*

These Rules of Practice and Procedure (hereinafter the “Rules”) are adopted by the Rhode Island Department of Administration (“Department”) as a result of Executive Order 09-08, a copy of which is attached hereto as Appendix A, and pursuant to RIGL §§ 42-11-1 *et seq.*, 42-35-1 *et seq.* and 42-92-1 *et seq.* for the purpose of investigating, prosecuting and adjudicating claims and charges against duly commissioned notaries in accordance with RIGL § 42-30-10. Issues not addressed in these Rules or for which any party seeks clarification are to be considered in light of R.I. Gen. Laws §§ 42-11-1 *et seq.* and 42-35-1 *et seq.*

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

Section 2 *Definitions*

When used in these Rules, the following words, except as otherwise required by the context, shall have the following meaning described below. Additionally, all definitions set forth in the Standards (Appendix B) are incorporated herein by reference to these Rules. (A) “Contested Case(s)” means an adjudicatory proceeding before a Hearing Officer, as hereinafter defined, of the Department in which the legal rights, duties or privileges of a party are determined.

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

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

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

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

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

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

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

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

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

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

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

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

Section 3 Complaints and Department Investigations

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

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

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

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

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

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

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

- (2) a statement of the allegations and findings, including a copy of the Complaint;
- (3) reference to particular statutes, rules or Standards that appear to have been violated;
- (4) a statement of the sanctions to be imposed; and,
- (5) an opportunity to request a hearing within twenty (20) days of the mailing of the determination notice

Section 4 Opportunity to be Heard/Conduct of Hearings

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

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

Section 5 Judicial Review

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

Section 6 Severability

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

Section 7 Effective Date

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

APPENDIX A

**Office of the Governor
State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903-1196
401-222-2080**

EXECUTIVE ORDER

09-08

April 8, 2009

NOTARY PUBLIC CODE OF CONDUCT AND DISCIPLINARY PROCEDURES

WHEREAS, pursuant to Chapter 30 of Title 42 of the Rhode Island General Laws, the Offices of Governor and Secretary of State are responsible for the appointment, registration and disciplining of notaries public; and

WHEREAS, incidents of notary public misconduct are on the rise and there are currently no statutes, rules or regulations in Rhode Island regarding standards of notary conduct; and

WHEREAS, an advisory code of conduct for notaries public would help protect Rhode Island citizens; and

WHEREAS, the Governor has the authority to remove notaries public for cause pursuant to R.I.G.L. §42-30-10; and

WHEREAS, this Executive Order is intended to spell out the procedures for removing such notaries and to conform with due process requirements in the exercise of that power.

NOW, THEREFORE, I, DONALD L. CARCIERI, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, do hereby order and direct the following:

1. By execution of this Executive Order, I hereby endorse the provisions of the document entitled, “Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations,” which has been drafted and approved by the legal divisions of both my office and that of the Secretary of State, and reflects codes of conduct adopted in other states such as our neighboring state of Massachusetts.
2. All notaries public in the State of Rhode Island are encouraged to act in accordance with the provisions of this document in order to better protect and serve the citizens of the State of Rhode Island.
3. Copies of aforementioned document can be obtained through the legal divisions of the Office of the Governor or Secretary of State, and those divisions are prepared to answer any questions that may arise from the document.
4. I also hereby delegate my authority to discipline notaries public pursuant to R.I.G.L. § 42-30-10 to the Department of Administration, which shall investigate, prosecute, and adjudicate claims and charges against notaries pursuant to R.I.G.L. § 42-30-10 and the Administrative Procedures Act, Chapter 35 of Title 42 of the Rhode Island General Laws. The Department of Administration may seek help from other agencies in order to accomplish this charge as it may deem necessary.

So Ordered:

Donald L. Carcieri

Dated: _____

APPENDIX A

State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903-1196
401-222-2080

Donald L. Carcieri
Governor

EXECUTIVE ORDER
09-25
October 1, 2009

**NOTARY PUBLIC CODE OF CONDUCT AND
DISCIPLINARY PROCEDURES SUPPLEMENTAL EXECUTIVE ORDER**

This Executive Order serves as a supplement to Executive Order 09-08, dated April 8, 2009 and entitled "Notary Public Code of Conduct and Disciplinary Procedures," In Paragraph 1 of the April 8, 2009 Order, I endorsed the provisions of a document entitled, "Standards of Conduct for Notaries Public in the state of Rhode Island and Providence Plantations," reflecting notary standards of conduct adopted in other states such as Massachusetts, Inasmuch as standards of conduct often require revision and amendment, through this Supplemental Executive Order I hereby authorize the aforementioned Standards of Conduct for Notaries Public document to be amended from time to time as deemed necessary by unanimous consent of the legal divisions of both my office and that of the Secretary of State.

So Ordered:

Donald L. Carcieri
Dated: October 1, 2009

By His Excellency
Donald L. Carcieri, Governor of the State of Rhode Island and Providence Plantations
and
By The Honorable
A. Ralph Mollis, Secretary of State, State of Rhode Island and Providence Plantations

**STANDARDS OF CONDUCT FOR NOTARIES PUBLIC IN THE STATE OF
RHODE ISLAND and PROVIDENCE PLANTATIONS**

Section 1: Applicability

(a) All notaries public should adhere to the "Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations." These standards will be considered by the Governor in the appointment, reappointment and removal of notaries public from

their commissions.

(b) Nothing in these “Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations” supersedes the provisions of any court rule, including court forms; The Rhode Island General Laws, including but not limited to Title 42, Chapter 30; any Federal statute; or any regulation adopted pursuant to The Rhode Island General Laws or Federal statute.

Section 2: Definitions

As used in the “Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations,” the following words shall have the following meanings:

(a) “**Acknowledgment**” shall mean a notarial act in which an individual, at a single time and place:

- (1) appears in person before the notary public and presents a document;
- (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of identity; and
- (3) indicates to the notary public 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 authority to sign in a particular representative capacity.

(b) “**Affirmation**” shall mean a notarial act, or part thereof, that is legally equivalent to an oath in which an individual, at a single time and place:

- (1) appears in person before the notary public;
- (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of identity; and
- (3) makes a vow of truthfulness or fidelity under the pains and penalties of perjury based on personal honor and without invoking a deity or using any form of the word “swear.”

(c) “**Commission**” means both to empower to perform notarial acts and the written evidence of authority to perform those acts.

(d) “**Copy certification**” shall mean a notarial act in which a notary public:

- (1) is presented with a document that is neither a vital record, a public record nor publicly recordable; and
- (2) copies or supervises the copying of the document using a photographic or electronic copying process; or

- (3) compares the document to the copy; and
- (4) determines that the copy is accurate and complete; and

(5) applies an acknowledgment to the document owner's signature attesting to the above listed facts.

(e) "**Credible witness**" means an honest, reliable, and impartial person who personally knows an individual appearing before a notary public and takes an oath or affirmation from the notary to vouch for that individual's identity.

(f) "**Journal of notarial acts**" or "**journal**" shall mean a permanently bound book that creates and preserves a chronological record of notarizations performed by a notary public.

(g) "**Jurat**" means a notarial act in which an individual, at a single time and place:

- (1) appears in person before the notary public and presents a document;
- (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of identity;
- (3) signs the document in the presence of the notary public; and
- (4) takes an oath or affirmation before the notary public vouching for the truthfulness or accuracy of the signed document.

(h) "**Notarial act**" and "**notarization**" shall mean any act that a notary public is empowered to perform.

(i) "**Notarial Certificate**" and "**Certificate**" shall mean the part of, or an attachment to, a notarized document that is completed by the notary public, bears the notary's signature and seal and states the facts attested by the notary in a particular notarization.

(j) "**Notary public**" or "**notary**" shall mean any person commissioned to perform official acts pursuant to Title 42, Chapter 30 of The Rhode Island General Laws, as amended.

(k) "**Oath**" shall mean a notarial act, or part thereof, which is legally equivalent to an affirmation, and in which an individual, at a single time and place:

- (1) appears in person before the notary public;
- (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of identity; and
- (3) makes a vow of truthfulness or fidelity under the pains and penalties of perjury by invoking a deity or using any form of the word "swear."

(l) "**Official misconduct**" shall mean:

- (1) a notary's public performance of any act prohibited, or failure to perform any act mandated by any law, in connection with a notarial act; or
- (2) a notary's public performance of an official act in a manner found to be grossly negligent or against the public interest.

(m) “**Personal appearance**” shall mean that the principal and the notary public are physically close enough to see, hear, communicate with and hand identification documents to each other.

(n) “**Personal knowledge of identity**” shall mean 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.

(o) “**Principal**” shall mean a person whose signature is notarized, or a person other than a credible witness, taking an oath or affirmation from the notary public.

(p) “**Regular place of work or business**” shall mean a stationary office or workspace where one spends most of one's working or business hours.

(q) “**Satisfactory evidence of identity**” shall mean identification of an individual based on at least one current document issued by a Federal or State or tribal government agency bearing the photographic image of the individual's face and signature; or on the oath or affirmation of a credible witness unaffected by the document or transaction who is personally known to the notary public and who personally knows the individual; or identification of an individual based on the notary's personal knowledge of the identity of the principal. For a person who is not a United States citizen, “satisfactory evidence of identity” shall mean identification of an individual based on a valid passport, or another government-issued document evidencing the individual's nationality or residence, that bears a photographic image of the individual's face and signature.

(r) “**Signature witnessing**” shall mean a notarial act in which an individual, at a single time and place:

- (1) appears in person before the notary public and presents a document;
- (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of identity; and
- (3) signs the document in the presence of the notary public.

Section 3: Scope and Description of Duties

(a) A notary public may perform the following notarial acts: acknowledgments, oaths and affirmations, jurats, signature witness, copy certifications, issuance of subpoenas and deposition of witnesses.

(b) In completing a notarial act, a notary public should sign his or her name exactly as it appears on the notary's commission, write the title “Notary Public” after his or her

signature, list his or her commission expiration date and list his or her notary identification number.

(c) A notary public has neither the duty nor the authority to investigate, ascertain or attest to the lawfulness, propriety, accuracy or truthfulness of a document or transaction involving a notarial act.

(d) Although not required by The Rhode Island General Laws, it is prudent for a notary public to use a seal when notarizing documents. The seal should include the notary's name exactly as it appears on his or her commission and the words "NOTARY PUBLIC" and "RHODE ISLAND." A notary's seal is the exclusive property of the notary; it may not be used by any other person. ***This section shall not preclude a notary who is a member of the General Assembly in the State of Rhode Island from notarizing a document without the use of a seal on the floor of the General Assembly during open session.***

(e) Each notary public should develop and adhere to his or her own "standard operating procedure" when notarizing instruments. This will benefit the notary if he or she is ever required to testify as how a particular instrument was notarized. A notary may find the use of a "journal of notarial acts" to be a beneficial tool. Notaries electing to use a "journal of notarial acts" should as a matter of good practice record the following:

- (1) the date and time of the notarial act, proceeding or transaction;
- (2) the type of notarial act;
- (3) the type, title or a description of the document, transaction or proceeding. If multiple documents are signed by the same principal in the course of a transaction or during a single date (i.e. real estate closings, mortgage discharges, state laboratory drug analysis certificates, etc.), a single journal entry shall be sufficient;
- (4) the signature, printed name and address of each principal and witness;
- (5) description of the satisfactory evidence of identity of each person including:
 - i. a statement that the person is "personally known to me;" or
 - ii. a notation of the type of identification document, the issuing agency, its serial or identification number and its date of issuance or expiration;
 1. If the identification number on the document is the person's Social Security number, instead of including the number, write in the words "Social Security number" or the acronym "SSN;" or
 - iii. a notation if the notary public identified the individual on the oath or affirmation of a credible witness or based on the notary's personal knowledge of the individual;

- (6) the fee, if any, charged for the notarial act; and
- (7) the address where the notarization was performed.
- (8) A notary public should record in the journal the circumstances for not completing a notarial act.

A notary public should not record a Social Security or credit card number in the journal.

A journal is recommended as best practice, but not required, for a notary public who is an attorney licensed to practice law within the State of Rhode Island. These Standards of Conduct shall not be construed to impair or infringe in any way on the attorney-client privilege or the attorney work doctrine.

(f) Certificates for Notarial Acts

A notary public should take the acknowledgment of the signature or mark of persons acknowledging for themselves or in any representative capacity by using substantially the following form:

State of _____
 County of _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to the notary that (he) (she) signed it voluntarily for its stated purpose.

- (as partner for _____, a partnership)
- (as _____ for _____, a corporation)
- (as attorney in fact for _____, the principal)
- (as _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

A notary public should use a jurat certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

State of _____
 County of _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of (his) (her) knowledge and belief.

_____ (official signature and seal of notary)

A notary public should witness a signature in substantially the following form in notarizing a signature or mark to confirm that it was affixed in the notary's presence without administration of an oath or affirmation:

State of _____
County of _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

_____ (official signature and seal of notary)

A notary public should certify a copy by using substantially the following form:

State of _____
County of _____

On this ____ day of _____, 20__, I certify that the (preceding) (following) (attached) document is a true, exact, complete, and unaltered copy made by me of _____ (description of the document), presented to me by _____, and to the best of my knowledge the copied document is neither a vital record nor a publicly recordable document, certified copies of which may be available from an official source other than a notary.

_____ (official signature and seal of notary)

(g) A notary public may certify the affixation of a signature by mark on a document presented for notarization if:

- (1) the principal affixes the mark in the presence of the notary public and of 2 witnesses unaffected by the document;
- (2) both witnesses sign their own names beside the mark;
- (3) the notary public writes below the mark: "Mark affixed by (name of signer by mark) in the presence of (names and addresses of witnesses) and undersigned notary; and
- (4) the notary public notarizes the signature by mark through an acknowledgment, jurat or signature witnessing.

(h) The notary public may sign the name of a principal who is physically unable to sign or make a mark on a document presented for notarization if:

- (1) the principal directs the notary public to do so in the presence of 2 witnesses who are unaffected by the document;
- (2) the principal does not have a demeanor that causes the notary public to have a compelling doubt about whether the principal knows the consequences of the transaction requiring the notarial act;
- (3) in the notary public's judgment, the principal is acting of his or her own free will;
- (4) the notary public signs the principal's name in the presence of the principal and the witnesses;
- (5) both witnesses sign their own names beside the signature;
- (6) the notary public writes below the signature: "Signature affixed by notary public in the presence of (names and addresses of principal and 2 witnesses);" and
- (7) the notary public notarizes the signature through an acknowledgment, jurat or signature witnessing.

(i) This section does not require a notary public to use the forms set forth above if the form of acknowledgment, jurat, signature witnessing or copy certification of a document contains an alternative form from another State if the document is to be filed or recorded in, or governed by the laws of, that other State.

(j) This section does not require a notary public to use the forms set forth above if the form of acknowledgment, jurat, signature witnessing or copy certification appears on a printed form that contains an express prohibition against altering that form.

(k) The forms of certificates for notarial acts set forth in this section are not intended to replace or supercede the existing forms commonly used in conveyances of real estate or in other legal documents within the State of Rhode Island, and in particular, those forms of certificates for notarial acts approved by any committee of the Rhode Island Bar Association.
Section 4: Prohibited Acts

(a) A notary public should not perform a notarial act if:

- (1) the principal is not in the notary's presence at the time of notarization;
- (2) the principal is not personally known to the notary public or is not identified by the notary through satisfactory evidence of identity;
- (3) the document presented for a certification is a vital record, a public record or a publicly recorded document that is available as a certified copy from an official source other than a notary public;
- (4) the principal has a demeanor that causes the notary public to have a compelling

doubt about whether the principal knows the consequences of the transaction or document requiring the notarial act;

(5) in the notary public's judgment, the principal is not acting of his or her own free will;

(6) the notary public is a party to or is named in the document that is to be notarized, except that a notary may notarize a document if the notary is named in the document for the sole purpose of receiving notices relating to the document and except that a notary who is licensed as an attorney in the State of Rhode Island and is named as an executor, trustee or in any fiduciary capacity in a document, or employees of such attorney, may perform notarial acts concerning such document;

(7) the notary public will receive as a direct result of the notarial act any commission, fee, advantage, right, title, interest, cash, property or other consideration exceeding in value the fees set forth in section 42-30-13 of The Rhode Island General Laws or has any financial interest in the subject matter of the document. This section shall not preclude a notary who is licensed as an attorney in the State of Rhode Island or any employee of such attorney where the attorney receives a legal fee for professional legal services rendered in connection with such document;

(8) the notary public is a spouse, domestic partner, parent, guardian, child or sibling of the principal, including in-law, step, or half relatives, except where such persons witness a will or other legal document prepared by the notary who is an attorney licensed in the State of Rhode Island.

(b) A notary public should not refuse to perform a notarial act solely based on the principal's race, advanced age, gender, sexual orientation, religion, national origin, health or disability.

(c) A notary public should not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may provide advice relating to that transaction if the notary is duly qualified, trained or experienced in a particular industry or professional field.

(d) A notary public should not execute a certificate containing information known or believed by the notary to be false.

(e) A notary public should not affix an official signature or seal on a notarial certificate that is incomplete.

(f) A notary public should not 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.

(1) in connection with a commercial, non-consumer transaction, a notary public may deliver a signed, sealed or signed and sealed notarial certificate to an attorney

with the understanding that:

- (i) the attorney will attach the certificate to a document outside of the notary's presence; and
- (ii) the attorney will hold such notarial certificate in escrow; and
- (iii) the attorney informs the notary that the attorney will obtain the approval of the principal, or principals, involved before attaching the certificate to the document.

(g) A notary public should not notarize a signature on a blank or incomplete document, except in connection with a commercial, non-consumer transaction, a notary may deliver a signed, sealed, or signed and sealed notarial certificate to an attorney with the understanding that:

- (i) the attorney will attach the certificate to a document outside of the notary's presence; and
- (ii) the attorney will hold such notarial certificate in escrow; and
- (iii) the attorney informs the notary that the attorney will obtain the approval of the principal, or principals, involved before attaching the certificate to the document.

(h) A notary public should not perform any official act with the intent to deceive or defraud.

(i) A notary public should not claim to have powers, qualifications, rights or privileges that the office of notary does not provide, including the power to counsel on immigration matters.

(j) A notary public should not use the term "notario" or "notario publico" or any equivalent non-English term in any business card, advertisement, notice or sign. It is recommended to use only the commission title of "Notary Public." Any equivalent non-English term may imply to the general public that legal services are being rendered.

(k) A notary public should not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may advise against a transaction if the notary knows or has good reason to believe that the associated transaction is unlawful.

Section 5: Limitations of Discretion

A notary public should perform any notarial act for any person requesting such an act who tenders the fee set forth in section 42-30-13 of The Rhode Island General Laws unless:

- (1) the notary public knows or has good reason to believe that the notarial act or the associated transaction is unlawful;
- (2) the principal has a demeanor that causes the notary public to have a compelling doubt about whether the principal knows the consequences of the transaction or

document requiring the notarial act;

(3) the act is prohibited by other applicable law; or

(4) the number of notarial acts requested practicably precludes completion of all acts at once, in which case the notary public shall arrange for later completion of the remaining acts.

Section 6: Prohibition Against the Unauthorized Practice of Law

(a) A non-attorney notary public should not assist a non-attorney in drafting, completing, selecting or understanding a document or transaction requiring a notarial act, rendering legal advice or otherwise engage in the practice of law.

(b) This section does not preclude a notary public 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.

Section 7: Advertising Disclaimer Required

A non-attorney notary public who advertises notarial services in any language should include in the advertisement, notice, letterhead or sign the following, prominently displayed in the same language the statement: “I am not an attorney and have no authority to give advice on immigration or other legal matters.”

Section 8: Change of Name or Address and Loss of Seal

(a) Within 10 days after the change of a notary public’s residence or name, the notary should file with the Office of the Secretary of State, Notary Public Section, a Change of Address or Change of Name form. The required forms can be obtained from the Notary Public Section, 148 W. River Street, Providence, RI 02904 or (401) 222-1487 or www.sec.state.ri.us.

(b) Any notary public whose seal is lost, misplaced, destroyed, broken, damaged, stolen or otherwise unworkable should immediately deliver written notice of that fact to the Office of the Secretary of State. If and when the notary’s seal is recovered or replaced, written notice of the recovery or replacement should also be delivered immediately to the Office of the Secretary of State.

Section 9: Notification of Resignation or Death

(a) A notary public who ceases to be a qualified elector, ceases to be a member of the Rhode Island Bar or who becomes permanently unable to perform his or her notarial duties, should resign his or her commission.

(b) A notary public who resigns his or her commission should send to the Office of the Secretary of State by any means that provides a tangible receipt or acknowledgment,

including certified mail and electronic transmission, a signed notice indicating the effective date of the resignation.

(c) If a notary public dies during the term of his or her commission, the notary's personal representative, as soon as reasonably practicable after death, should notify the Office of the Secretary of State of the death in writing by any means that provides a tangible receipt or acknowledgment, including certified mail and electronic transmission. The notary's personal representative should also comply with Section 10 of this document.

Section 10: Duties at the End of the Commission

When a notary public commission expires, is resigned, or is revoked, the notary should:

(a) As soon as reasonably practicable, destroy or deface all notary seals or stamps so that they may not be used: and

(b) If the notary public elected to use a "journal of notarial acts" as a matter of good practice, the notary should retain the journal and records for seven years after the date of expiration, resignation or revocation.

Section 11: Removal of Notary Public

In accordance with the provisions of The Rhode Island General Laws section 42-30-10 a notary public's commission may be revoked for official misconduct or may be removed for cause by the Governor, in his or her discretion.

Section 12: Revocation of Commission

In accordance with the provisions of The Rhode Island General Laws section 42-30-10, a notary public's commission shall be revoked if he/she is convicted of a felony and incarcerated.

Section 13: Fraud or Deceit in Office

In accordance with the provisions of The Rhode Island General Laws section 42-30-16, a notary public who is found to have practiced fraud or deceit will be held accountable and shall be guilty of a misdemeanor and fined not more than one thousand (\$1,000.00) or imprisoned not more than one (1) year or both.

History of Document: Amended 10/15/2009: 11/18/2009

MEMORANDUM OF UNDERSTANDING

1.0 This is an Agreement among the following branches of Rhode Island Government
Office of the Rhode Island Secretary of State ("SOS")
Office of the Governor ("GOV")

1.1 Effective November 14, 2009 this agreement amends, in part as set forth herein, those certain Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations (the “Standards”) which were affixed to Executive Order # 09-08 issued by the Honorable Donald L. Carcieri, Governor for the State of Rhode Island on April 8, 2009 and which were amended by Consent of the Legal Counsels of both the Governor’s Office and the Secretary of State’s Office on October 15, 2009.

2.0 PURPOSE: The purpose of this agreement is to confirm, in writing, the agreement of the legal department of the Office of the Governor and the legal department of the Office of the Rhode Island Secretary of State to amend in part as set forth herein, those certain Standards of Conduct for Notaries Public which were affixed to Executive Order # 09-08 issued by the Honorable Donald L. Carcieri, Governor for the State of Rhode Island on April 8, 2009 and which were amended by Consent of the Legal Counsels of both the Governor’s Office and the Secretary of State’s Office on October 15, 2009.

3.0 AMENDMENT: By execution of this agreement, Section 4 of the Standards shall be amended to read as follows:

Section 3: Scope and Description of Duties

(a) A notary public may perform the following notarial acts: acknowledgements, oaths and affirmations, jurats, signature witness, copy certifications, issuance of subpoenas and deposition of witnesses.

(b) In completing a notarial act, a notary public should sign his or her name exactly as it appears on the notary’s commission, write the title “Notary Public” after his or her signature, list his or her commission expiration date and list his or her notary identification number.

(c) A notary public has neither the duty nor the authority to investigate, ascertain or attest to the lawfulness, propriety, accuracy or truthfulness of a document or transaction involving a notarial act.

(d) Although not required by The Rhode Island General Laws, it is prudent for a notary public to use a seal when notarizing documents. The seal should include the notary’s name exactly as it appears on his or her commission and the words “NOTARY PUBLIC” and “RHODE ISLAND.” A notary’s seal is the exclusive property of the notary; it may not be used by any other person. **This section shall not preclude a notary who is a member of the General Assembly in the State of Rhode Island from notarizing a document without the use of a seal on the floor of the General Assembly during open session.**

(e) Each notary public should develop and adhere to his or her own “standard operating procedure” when notarizing instruments. This will benefit the notary if he or she is ever required to testify as how a particular instrument was notarized. A notary may find the use of a “journal of notarial acts” to be a beneficial tool. Notaries electing to use a “journal of notarial acts” should as a matter of good practice record the following:

- (1) the date and time of the notarial act, proceeding or transaction;
- (2) the type of notarial act;
- (3) the type, title or a description of the document, transaction or proceeding. If multiple documents are signed by the same principal in the course of a transaction or during a single date (i.e. real estate closings, mortgage discharges, state laboratory drug analysis certificates, etc), a single journal entry shall be sufficient;
- (4) the signature, printed name and address of each principal and witness;
- (5) description of the satisfactory evidence of identity of each person including:
 - i. a statement that the person is “personally known to me;” or
 - ii. a notation of the type of identification document, the issuing agency, its serial or identification number and its date of issuance or expiration;
 - 1.If the identification number on the document is the person’s Social Security number, instead of including the number, write in the words “Social Security number” or the acronym “SSN;” or
 - iii. a notation if the notary public identified the individual on the oath or affirmation of a credible witness or based on the notary’s personal knowledge of the individual;
- (6) the fee, if any, charged for the notarial act; and
- (7) the address where the notarization was performed.
- (8) A notary public should record in the journal the circumstances for not completing a notarial act.

A notary public should not record a Social Security or credit card number in the journal.

A Journal is recommended as best practice, but not required, for a notary public who is an attorney licensed to practice law within the State of Rhode Island. These Standards of Conduct shall not be construed to impair or infringe in any way on the attorney-client privilege or the attorney work product doctrine.

(f) Certificates for Notarial Acts

A notary public should take the acknowledgment of the signature or mark of persons acknowledging for themselves or in any representative capacity by using substantially the following form:

State of _____

County of _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to the notary that (he) (she) signed it voluntarily for its stated purpose.

(as partner for _____, a partnership)
(as _____ for _____, a corporation)
(as attorney in fact for _____, the principal)
(AS _____ for _____, (a) (the) _____)

_____ (official signature and seal of notary)

A notary public should use a jurat certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

State of _____

County of _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of (his) (her) knowledge and belief.

_____ (official signature and seal of notary)

A notary public should witness a signature in substantially the following form in notarizing a signature or mark to confirm that it was affixed in the notary's presence without administration of an oath or affirmation:

State of _____

County of _____

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____ (name of document signer), personally known to the notary or proved to the notary through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

_____ (official signature and seal of notary)

A notary public should certify a copy by using substantially the following form:

State of _____

County of _____

On this ____ day of _____, 20__, I certify that the (preceding) (following) (attached) document is a true, exact, complete, and unaltered copy made by me of _____ (description of the document), presented to me by _____, and to the best of my knowledge the copied document is neither a vital record nor a publicly recordable document, certified copies of which may be available from an official source other than a notary.

_____ (official signature and seal of notary)

(g) A notary public may certify the affixation of a signature by mark on a document presented for notarization if:

- (1) the principal affixes the mark in the presence of the notary public and of 2 witnesses unaffected by the document;
- (2) both witnesses sign their own names beside the mark;
- (3) the notary public writes below the mark: "Mark affixed by (name of signer by mark) in the presence of (names and addresses of witnesses) and undersigned notary; and
- (4) the notary public notarizes the signature by mark through an acknowledgment, jurat or signature witnessing.

(h) The notary public may sign the name of a principal who is physically unable to sign or make a mark on a document presented for notarization if:

- (1) the principal directs the notary public to do so in the presence of 2 witnesses who are unaffected by the document;
- (2) the principal does not have a demeanor that causes the notary public to have a compelling doubt about whether the principal knows the consequences of the transaction requiring the notarial act;
- (3) in the notary public's judgment, the principal is acting of his or her own free will;
- (4) the notary public signs the principal's name in the presence of the principal and the witnesses;
- (5) both witnesses sign their own names beside the signature;

(6) the notary public writes below the signature: "Signature affixed by notary public in the presence of (names and addresses of principal and 2 witnesses);" and

(7) the notary public notarizes the signature through an acknowledgment, jurat or signature witnessing.

(i) This section does not require a notary public to use the forms set forth above if the form of acknowledgment, jurat, signature witnessing or copy certification of a document contains an alternative form from another State if the document is to be filed or recorded in, or governed by the laws of, that other State.

(j) This section does not require a notary public to use the forms set forth above if the form of acknowledgment, jurat, signature witnessing or copy certification appears on a printed form that contains an express prohibition against altering that form.

(k) The forma of certificates for notarial acts set forth in this section are not intended to replace or supercede the existing forms commonly used in conveyances of real estate or in other legal documents within the State of Rhode Island, and in particular, those forms of certificates for notarial acts approved by any committee of the Rhode Island Bar Association.

Office of the Secretary of State

By: _____ Date: _____

Its: _____

Office of the Governor

By _____ Date: _____

Its: _____

APPENDIX C

Return form by U.S. Mail, Return Receipt Requested to:
State of Rhode Island
Department of Administration
One Capitol Hill Appendix C
Providence, RI 02908
(401)-222-8880

COMPLAINT FORM

COMPLAINANT INFORMATION (please print)

Name: _____ Home Phone: _____

Address: _____ Business/Cell Phone: _____
_____ E-mail: _____

RESPONDENT/NOTARY PUBLIC INFORMATION (please print)

Name of Notary: _____ Commission No. (if known): _____

Address: _____ Business/Cell Phone: _____
_____ E-mail: _____

NATURE OF COMPLAINT (Please include date, witnesses, and any facts deemed relevant to the alleged act) (Please attach additional sheets as necessary)

OTHER QUESTIONS (Please Respond)

1. Is your signature on the subject document/s a forgery? YES _ NO _
2. Did you personally appear before the Notary on the date shown on the notarial acknowledgment? YES _ NO _
3. If you appeared before the Notary, did you acknowledge signing the subject document/s? YES _ NO _
4. Do you personally know the Notary? YES _ NO _ (If Yes, please explain the nature of the relationship)
5. Have you referred this matter to law enforcement? YES _ NO _

IMPORTANT:

1. Please attach copies of all questioned documents to this complaint.
2. Please attach OTHER records which pertain to your complaint (examples: depositions, police reports, certified copies of documents, court records).
3. Please return this complaint form, the certified copies of questioned documents and the other documents to the address shown at the top of the page.

I certify that the information in this complaint is true and correct to the best of my knowledge.

Signature _____ Date _____