

## VERMONT STATUTES

### TITLE EIGHT. BANKING AND INSURANCE PART 5. FINANCIAL AND RELATED INSTITUTIONS CHAPTER 204. POWERS OF FINANCIAL INSTITUTIONS SUBCHAPTER 5. SAFE DEPOSIT BOXES

#### **8 V.S.A. § 14501. Failure to pay rent; removal of contents**

(a) If the amount due for the use of any safe or box in the vaults of a financial institution is not paid for one year, or such other period as may be fixed in the contract of renting of such safe or box, the financial institution, at the expiration thereof, may cause to be sent to the person in whose name the safe or box stands on its books, a notice in writing that if the amount then due for the use of the safe or box is not paid within 60 days from the date of the notice, the financial institution will then cause the safe or box to be opened in the presence of an officer duly authorized by the governing body and of a notary public not an officer or in the employ of the financial institution, and the contents thereof, if any, will be sealed up by the notary in a package upon which the notary will distinctly mark the name and address of the person in whose name such safe or box stands upon the books of the financial institution and the estimated value thereof. The package so sealed and addressed, when marked for identification by the notary, will be placed by the notary in one of the general safes or boxes of such financial institution. The notice shall be sent in a postage prepaid registered letter directed to that person at his or her post office address as recorded upon the books of the financial institution, and at his or her last known address.

(b) The proceedings of the notary shall be fully set forth in the notary's own handwriting and official seal in a book to be kept by the financial institution for that purpose. After such contents have been so placed in general safes or boxes, the financial institution shall be required to use only the degree of care required of a bailee for the sole benefit of the bailor notwithstanding the contract of renting requires a higher degree of care during the period of renting.

### TITLE 9. COMMERCE AND TRADE CHAPTER 20. UNIFORM ELECTRONIC TRANSACTIONS ACT

#### **9 V.S.A. § 280. Notarization and acknowledgment**

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.

### TITLE 11. CORPORATIONS, PARTNERSHIPS AND ASSOCIATIONS CHAPTER 1: CORPORATIONS GENERALLY SUBCHAPTER 4. DIRECTORS AND OFFICERS

#### **11 V.S.A. § 231. Acknowledgments by stockholder or officer**

A person legally qualified to take acknowledgments shall not be disqualified to take such acknowledgments to an instrument in which a corporation is a party, by reason of his being a stockholder in or an officer or employee of such corporation.

**TITLE 12. COURT PROCEDURE  
PART 10. OATHS AND FORMS  
CHAPTER 211. OATHS  
SUBCHAPTER 2. ADMINISTRATION OF OATHS**

**12 V.S.A. § 5852. Oaths of office; by whom administered.**

When other provision is not made by law, oaths of office may be administered by any justice of the supreme court, superior judge, assistant judge, justice of the peace, notary public or the presiding officer, secretary or clerk of either house of the general assembly or by the governor.

**12 V.S.A. § 5854. Oaths, administering by court clerks, justices, notaries, etc.; certification.**

The clerk of the supreme court, county clerks, justices of the peace, judges and registers of probate, judges and clerks of the district court, notaries public and masters appointed by a county court under an order of referee may administer oaths in all cases where an oath is required, unless a different provision is expressly made by law; and a notary public need not affix his official seal to a certificate of an oath administered by him. County clerks and clerks of the district court may certify the oaths administered by them under the seal of the court.

**TITLE 24. MUNICIPAL AND COUNTY GOVERNMENT  
PART 1. COUNTIES  
CHAPTER 5. COUNTY OFFICERS; POWERS AND DUTIES  
SUBCHAPTER 2. COUNTY CLERK**

**24 V.S.A. § 183. Certificate of appointment of notary public.**

Immediately after the appointment of a notary public, the county clerk shall send to the secretary of state a certificate of such appointment, on blanks furnished by the secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. The secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, the secretary may certify the appointment, qualification and signature of a notary public on tender of his or her legal fees.

**TITLE 26. PROFESSIONS AND OCCUPATIONS  
CHAPTER 103. NOTARIES PUBLIC  
SUBCHAPTER 1. GENERAL PROVISIONS**

**§ 5301. Short title**

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

**§ 5302. Uniformity of application and construction**

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§ 5303. Relation to Electronic Signatures in Global and National Commerce Act**

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

in Section 103(b) of that act, 15 U.S.C. § 7003(b).

#### **§ 5304. Definitions**

As used in this chapter:

(1) “Acknowledgment” means a declaration by an individual before a notary public 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) “Certificate” or “notarial certificate” means the part of, or attachment to, a notarized document that is completed by a notary public, bears the required information set forth in section 5367 of this chapter, and states the facts attested to or certified by the notary public in a particular notarization.

(3) “Commission term” means the two-year period commencing on February 1 and continuing through January 31 of the second year following the commencement of the term.

(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:

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

(B) a public officer, personal representative, guardian, administrator, executor, trustee, or other representative, in the capacity stated in a record;

(C) an agent or attorney-in-fact for a principal; or

(D) an authorized representative of another in any other capacity.

(7) (A) “Notarial act” means an act, whether performed with respect to a tangible or an electronic record, that a notary public 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, attesting a signature, and noting a protest of a negotiable instrument.

(B) “Notarial act” does not include a corporate officer attesting to another corporate officer’s signature in the ordinary course of the corporation’s business.

(C) Nothing in this chapter shall be construed to require the use of a notary public to witness a signature that is allowed by law to be witnessed by an individual who is not a notary public.

(8) “Notarial officer” means an individual authorized to perform a notarial act under authority and within the jurisdiction of another state, under authority and within the jurisdiction of a federally recognized Indian tribe, under authority of federal law, under authority and within the jurisdiction of a foreign state or constituent unit of the foreign state, or under authority of a multinational or international governmental organization.

(9) “Notary public” means an individual commissioned to perform a notarial act by the Office.

(10) “Office” means the Office of Professional Regulation within the Office of the Secretary of State.

(11) “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic process, seal, or image or electronic information attached to or logically associated with an electronic record.

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

(13) “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.

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

(A) to execute or adopt a tangible symbol; or

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

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

(16) “Stamping device” means:

(A) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

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

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

(18) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

### **§ 5305. Exemptions**

(a) Judiciary – and law enforcement-related employees.

(1) Employee exemptions.

(A) Judiciary-related.

(i) The persons set forth in subdivision (2)(A) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, including the requirement to pay the fee set forth in section 5324 of this chapter, except for the requirement to apply for a commission as set forth in section 5341(a), (b)(1)-(3), (c), (d), and (e) of this chapter.

(ii) A commission issued to a person under this subdivision (A) shall not be considered a license.

(B) Law enforcement-related.

(i) The persons set forth in subdivision (2)(B) of this subsection, when acting within the scope of their official duties, shall be commissioned as notaries public authorized to perform a notarial act as a matter of law and are exempt from all of the requirements of this chapter, including the requirement to pay the fee set forth in section 5324 of this chapter.

(ii) A notarial act that identifies the notary public as a person who is exempt under this subdivision (B) shall establish as a matter of law that the person is commissioned as a notary public for the purpose of acting within the scope of official duties under this subsection.’

(2) Employees, defined.

(A) Judiciary-related. Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Law enforcement-related. Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law

enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State's Attorney or Sheriff.

(3) Official duties, defined. As used in subdivision (1) of this subsection, "acting within the scope of official duties" means that a person is notarizing a document that:

(A) he or she believes is related to the execution of his or her duties and responsibilities of employment or is the type of document that other employees notarize in the course of employment;

(B) is useful or of assistance to any person or entity identified in subdivision (2) of this subsection (a);

(C) is required, requested, created, used, submitted, or relied upon by any person or entity identified in subdivision (2) of this subsection (a);

(D) is necessary in order to assist in the representation, care, or protection of a person or the State;

(E) is necessary in order to protect the public or property;

(F) is necessary to represent or assist crime victims in receiving restitution or other services;

(G) relates to a Vermont or federal court rule or statute governing any criminal, postconviction, mental health, family, juvenile, civil, probate, Judicial Bureau, Environmental Division, or Supreme Court matter; or

(H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33 of the Vermont Statutes Annotated.

(b) Attorneys.

(1) Attorneys licensed and in good standing in this State are exempt from:

(A) the examination requirement set forth in subsection 5341(b) of this chapter; and

(B) the continuing education requirement set forth in section 5343 of this chapter.

(2) If a complaint of a violation of this chapter is filed in regard to a Vermont licensed attorney, the Office shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(c) Town clerks, assistants, and justices of the peace.

(1)(A) A town clerk and his or her assistants may perform notarial acts as notaries public throughout the town clerk's county, provided that they shall comply with all of the requirements of this chapter, except as provided in subdivision (2) of this subsection.

(B) Subject to the provisions of subdivision (A) of this subdivision (1), performing notarial acts as a notary public shall be considered within the scope of the official duties of a town clerk and his or her assistants.

(2) Justices of the peace and town clerks and their assistants are exempt from the fee set forth in section 5324 of this chapter.

(d) Unauthorized practice. Nothing in this section is intended to prohibit prosecution of a person under 3 V.S.A. § 127 (unauthorized practice).

## **SUBCHAPTER 2. ADMINISTRATION**

### **§ 5321. Secretary of State's Office duties**

The Office shall:

(1) provide general information to applicants for commissioning as a notary public;

(2) administer fees as provided under section 5324 of this chapter;

(3) explain appeal procedures to notaries public and applicants and explain complaint procedures to the public; and

(4) receive applications for commissioning, review applications, and grant and renew commissions when appropriate under this chapter.

### **§ 5322. Advisor appointees**

(a) The Secretary of State shall appoint two notaries public to serve as advisors in matters relating to notarial acts. One of the advisors shall be an attorney selected from a list of at least three licensed attorneys provided by the Vermont Bar Association. The advisors shall be appointed for staggered five-year terms and serve at the pleasure of the Secretary. One of the initial appointments shall be for less than a five-year term.

(b) Each appointee shall have at least three years of experience as a notary public during the period immediately preceding appointment and shall be actively commissioned in Vermont and remain in good standing during incumbency.

(c) The Office shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The appointees shall be entitled to compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010 for attendance at any meeting called by the Office for this purpose.

### **§ 5323. Rules**

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking the commission of or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts; and

(6) prescribe standards for remote online notarization, including standards for credential analysis, the process through which a third person affirms the identity of an individual, the methods for communicating through a secure communication link, the means by which the remote notarization is certified, and the form of notice to be appended disclosing the fact that the notarization was completed remotely on any document acknowledged through remote online notarization.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records and remote online notarization may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records and remote online notarization, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records and remote online notarization promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this

chapter; and

(3) the views of governmental officials and entities and other interested persons.

(c) Neither electronic notarization nor remote online notarization shall be allowed until the Secretary of State has adopted rules and prescribed standards in these areas.

#### **§ 5324. Fees**

For the issuance of a commission as a notary public, the Office shall collect a fee of \$ 15.00.

### **SUBCHAPTER 3. COMMISSIONS**

#### **§ 5341. Commission as notary public; qualifications; no immunity or benefit**

(a) An individual qualified under subsection (b) of this section may apply to the Office for a commission as a notary public. The applicant shall comply with and provide the information required by rules adopted by the Office and pay the application fee set forth in section 5324 of this chapter.

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

(1) be at least 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) not be disqualified to receive a commission under section 5342 of this chapter; and  
[Subdivision (b)(5) effective February 1, 2021.]

(5) pass a basic examination approved by the Office based on the statutes, rules, and ethics relevant to notarial acts.

(c) 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 Office.

(d) Upon compliance with this section, the Office shall issue a commission as a notary public to an applicant, which shall be valid through the then current commission term end date.

(e) 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.

#### **§ 5342. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public**

(a) The Office 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:

(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 Office;

(3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;

(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) failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Office, or any federal or State law;

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

(7) violation by the notary public of a rule of the Office regarding a notary public;

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

(9) committing any of the conduct set forth in 3 V.S.A. § 129a(a).

(b) If the Office 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 3 V.S.A. chapter 25.

### **§ 5343. Renewals; continuing education**

(a) Biennially, the Office shall provide a renewal notice to each commissioned notary public. Upon receipt of a notary public's completed renewal, payment of the fee as set forth in section 5324 of this chapter, and evidence of eligibility, the Office shall issue to him or her a new commission.

[Subsection (b) effective February 1, 2021.]

(b) A notary public applying for renewal shall complete continuing education approved by the Office, which shall not be required to exceed two hours, during the preceding two-year period.

(c) The Office, with the advice of the advisor appointees, shall establish by rule guidelines and criteria for continuing education credit.

### **§ 5344. Database of notaries public**

The Office 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) that indicates whether a notary public has notified the Office that the notary public will be performing notarial acts on electronic records.

### **§ 5345. Prohibitions; offenses**

(a) A person shall not perform or attempt to perform a notarial act or hold himself or herself out as being able to do so in this State without first having been commissioned.

(b) A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a notary public unless commissioned in accordance with this chapter.

(c) A person shall not perform or attempt to perform a notarial act while his or her commission has been revoked or suspended.

(d) A person who violates a provision of this section shall be subject to a fine of not more than \$ 5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the Attorney General or a State's Attorney and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(e) A commission as a notary public shall not authorize an individual to assist a person in drafting legal records, give legal advice, or otherwise practice law.

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

## **SUBCHAPTER 4. NOTARIAL ACTS**

### **§ 5361. Notarial acts in this State; authority to perform**

(a) A notarial act, as defined in subdivision 5304(7)(A) of this chapter may only be performed in this State by a notary public commissioned under this chapter.

(b) 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.

### **§ 5362. Authorized notarial acts**

(a) A notary public may perform a notarial act authorized by this chapter or otherwise by law of this State.

(b) A notary public shall not perform a notarial act with respect to a record to which the notary public or the notary public's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

### **§ 5363. Requirements for certain notarial acts**

(a) Acknowledgments. -- A notary public 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) Verifications. -- A notary public 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 officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

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

(d) Protests. -- A notary public who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b), protest; certificate of dishonor.

### **§ 5364. Personal appearance required**

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) The requirement for a personal appearance is satisfied if:

(1) the notary public and the person executing the signature are in the same physical place; or

(2) the notary public and the person are communicating through a secure communication link using protocols and standards prescribed in rules adopted by the Secretary of State pursuant to the rulemaking authority set forth in this chapter.

### **§ 5365. Identification of individual**

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

(b) Satisfactory evidence. -- A notary public has satisfactory evidence of the identity of an

individual appearing before the officer if the officer can identify the individual:

(1) by means of:

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

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

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

(c) Additional information. -- A notary public may require an individual to provide additional information or identification credentials necessary to assure the notary public of the identity of the individual.

### **§ 5366. 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 notary public to sign the individual's name on the record. The notary public shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

### **§ 5367. Certificate of notarial act**

(a) A notarial act shall be evidenced by a certificate. The certificate shall:

(1) be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notary public and be signed in the same manner as on file with the Office;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notary public; and

(5) indicate the date of expiration of the officer's commission.

(b)

(1) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate or, in the alternative, the notary shall clearly print or type the notary public's name and commission number on the certificate.

(2) If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subdivisions (a)(2)-(4) of this section, an official stamp may be attached to or logically associated with the certificate.

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

(1) is in a short form as set forth in section 5368 of this chapter;

(2) is in a form otherwise permitted by the law of this State;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5362-5364 of this chapter or a law of this State other than this chapter.

(d) By executing a certificate of a notarial act, a notary public certifies that the notary public

has complied with the requirements and made the determinations specified in sections 5363-5365 of this chapter.

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

(f)

(1) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record.

(2) If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record.

(3) If the Office has established standards by rule pursuant to section 5323 of this chapter for attaching, affixing, or logically associating the certificate, the process shall conform to those standards.

### § 5368. Short-form certificates

The following short-form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by subsections 5367(a) and (b) of this chapter:

(1) For an acknowledgment in an individual capacity:

State of Vermont

[County] of

This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_.  
Date Name(s) of individual(s)

Signature of notary public

Stamp [ ]

Title of office

[My commission expires: \_\_\_\_\_]

(2) For an acknowledgment in a representative capacity:

State of Vermont

[County] of

This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_.  
Date Name(s) of individual(s)

as \_\_\_\_\_ of \_\_\_\_\_  
Type of authority, such as officer or trustee Name of party on behalf of whom record was executed).

Signature of notary public

Stamp [ ]

Title of office

[My commission expires: \_\_\_\_\_]

(3) For a verification on oath or affirmation:

State of Vermont

[County] of

Signed and sworn to (or affirmed) before me on \_\_\_\_\_ by \_\_\_\_\_.  
Date Name(s) of individual(s) making statement

Signature of notary public

Stamp [ ]

Title of office

[My commission expires: \_\_\_\_\_]

(4) For attesting a signature:

State of Vermont

[County] of

Signed [or attested] before me on \_\_\_\_\_ by \_\_\_\_\_.

Date

Name(s) of individual(s)

Signature of notary public

Stamp [ ]

Title of office

[My commission expires: \_\_\_\_\_]

### **§ 5369. Official stamp**

The official stamp of a notary public shall:

(1) include the notary public's name, jurisdiction, and other information required by the Office; 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.

### **§ 5370. Stamping device**

(a) A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act.

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Office on discovering that the device is lost or stolen.

### **§ 5371. 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 from the tamper-evident technologies approved by the Office by rule. A person shall 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, the notary public shall notify the Office that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use from the list of technologies approved by the Office by rule. If the Office has established standards by rule for approval of technology pursuant to section 5323 of this chapter, the technology shall conform to the standards. If the technology conforms to the standards, the Office shall approve the use of the technology.

### **§ 5372. Authority to refuse to perform notarial act**

(a) A notary public may refuse to perform a notarial act if the notary public 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 notary public may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

### **§ 5373. Validity of notarial acts**

(a) Except as otherwise provided in subsection 5372(b) of this chapter, the failure of a notary public to perform a duty or meet a requirement specified in this chapter shall not impair the marketability of title or invalidate a notarial act or a certification evidencing the notarial act.

(b) An acknowledgment that contains a notary commission expiration date that is either inaccurate or expired shall not invalidate the acknowledgment if it can be established that on the date the acknowledgment was taken, the notary public's commission was active.

(c) The validity of a notarial act under this chapter shall 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 law of this State other than this chapter or law of the United States.

(d) Defects in the written evidence of acknowledgment in a document in the public records may be cured by the notary public who performed the original notarial act. The notary public shall, under oath and before a different notary public, execute a writing correcting any defect. Upon recording, the corrective document corrects any deficiency and ratifies the original written evidence of acknowledgment as of the date the acknowledgment was originally taken.

(e) Notwithstanding any provision of law to the contrary, a document that conveys an interest in real property shall be recordable in the land records and, if recorded, shall be sufficient for record notice to third parties, notwithstanding the failure of a notary public to perform any duty or meet any requirement specified in this chapter. Such failure includes the failure to comply in full or in part with the requirements of sections 5367-5369 of this title.

(f) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

### **§ 5374. 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 notary public 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) If a deed or other conveyance or a power of attorney for the conveyance of land, the acknowledgment or proof of which is taken out of State, is certified agreeably to the laws of the state in which the acknowledgment or proof is taken, it shall be valid as though it were taken before a proper officer in this State.

(c) An acknowledgment for a deed or other conveyance or a power of attorney for the conveyance of land that is taken out of State before a proper officer of this State shall be valid as if taken within this State.

(d) 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.

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

**§ 5375. Notarial act under authority of federally recognized Indian tribe**

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notary public of this State, if the act performed in the jurisdiction of the tribe is performed by:

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

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe 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 subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

**§ 5376. 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 notary public 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 U.S. 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 subdivision (a)(1), (2), or (3) of this section shall conclusively establish the authority of the officer to perform the notarial act.

**§ 5377. Evidence of authenticity of notarial act performed in this State**

(a) The authenticity of the official notarial stamp and signature of a notary public may be evidenced by either:

- (1) A certificate of authority from the Secretary of State authenticated as necessary.
- (2) An apostille from the Secretary of State in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

(b) An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

**§ 5378. Foreign notarial act**

(a) In this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notary public 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) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated by the U.S. 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.

**TITLE 27. PROPERTY**  
**CHAPTER 5. CONVEYANCE OF REAL ESTATE**  
**SUBCHAPTER 1. MANNER OF CONVEYING INTERESTS**  
**IN OR AFFECTING REALTY**

**27 V.S.A. § 305. Conveyances effected through power of attorney**

A deed or other conveyance of lands or of an estate or interest therein, made by virtue of a power of attorney, shall not be of any effect or admissible in evidence, unless such power of attorney is signed, witnessed by one or more witnesses, acknowledged and recorded in the office where such deed is required to be recorded.

**27 V.S.A. § 341. Requirements generally; recording**

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a town clerk, notary public, master, county clerk or judge or register of probate and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official seal being affixed to his or her signature.

(b) A deed or other conveyance of land which includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded.

(c) A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed, witnessed and acknowledged as provided in subsection (a) of this section, is recorded in the land records of the town in which the leased property is situated. The notice of lease shall contain at least the following information:

- (1) the names of the parties to the lease as set forth in the lease;
- (2) a statement of the rights of a party to extend or renew the lease;
- (3) any addresses set forth in the lease as those of the parties;
- (4) the date of the execution of the lease;
- (5) the term of the lease, the date of commencement, and the date of termination;
- (6) a description of the real property as set forth in the lease;
- (7) a statement of the rights of a party to purchase the real property or exercise a right of first

refusal with respect thereto;

- (8) a statement of any restrictions on assignment of the lease; and
- (9) the location of an original lease.

### **27 V.S.A. § 342. Acknowledgment and recording required**

A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making thereof shall not be effectual to hold such lands against any person but the grantor and his heirs, unless the deed or other conveyance is acknowledged and recorded as provided in this chapter.

### **27 V.S.A. § 348. Instruments concerning real property lacking statement of consideration, or witnesses or acknowledgments, validated**

When an instrument of writing shall have been on record in the office of the clerk in the proper town for a period of fifteen years, and there is a defect in the instrument because it omitted to state any consideration therefor or was not sealed, witnessed, acknowledged, validly acknowledged, or because a license to sell was not validly issued, the instrument shall, from and after the expiration of fifteen years from the filing thereof for record, be valid.

Nothing herein shall be construed to affect any rights acquired by grantees, assignees or encumbrancers under the instruments described in the preceding sentence, nor shall this section apply to conveyances or other instruments of writing, the validity of which is brought in question in any suit now pending in any courts of the state.

### **27 V.S.A. § 371. Proving execution when grantor dies or leaves state**

When a grantor or lessor dies or leaves the state without acknowledging his deed, the execution thereof may be proved by the testimony of a subscribing witness thereto before a justice of the supreme court, a superior judge or a judge of the superior court. If all the subscribing witnesses to such deed are dead or out of the state, the same may be proved before the supreme or superior court by proving the handwriting of the grantor or lessor and of a subscribing witness or adducing other evidence to the satisfaction of such court. Such evidence entered on such deed or annexed thereto shall be equivalent to the grantor's or lessor's acknowledgment thereof.

### **27 V.S.A. § 372. Proceedings when grantor refuses to acknowledge-Summons**

When a grantor or lessor refuses to acknowledge his deed, the grantee or lessee, or a person claiming under him, may apply to a district judge who shall thereupon issue a summons to the grantor or lessor to appear at a certain time and place before him to hear the testimony of the subscribing witnesses to the deed. Such summons, with a copy of the deed annexed, shall be served like a writ of summons, seven days at least before the time therein assigned for proving the deed.

### **27 V.S.A. § 373. Notice**

When such summons is served by leaving a copy thereof at the usual place of abode of the grantor or lessor, and it does not appear that actual notice was given, the judge shall continue the hearing from time to time, not exceeding ninety days, and direct that actual notice be given if the party resides in the state. When such notice cannot be given, the judge shall proceed in the examination as provided in section 374 of this title, and his certificate of the execution of the

deed shall have the same effect as therein provided.

**27 V.S.A. § 374. Hearing and certificate**

When it appears from the officer's return that a copy of such summons was delivered to the grantor or lessor, the judge may take evidence of one or more of the subscribing witnesses to the execution of such deed, at the time designated for hearing or at an adjournment thereof. If such execution is proved to the satisfaction of the judge, he shall certify the same thereon and in his certificate shall note the presence or absence of the grantor or lessor and such certificate shall be equivalent to the acknowledgment of the grantor or lessor.

**27 V.S.A. § 375. Witnesses dead or out of state**

When a grantor or lessor refuses to acknowledge his deed and the subscribing witnesses to the same are dead or out of the state, it may be proved before the supreme or any superior court by proving the handwriting of the grantor or lessor and of a subscribing witness, such court first summoning the grantor or lessor as provided in this chapter.

**27 V.S.A. § 378. Effect of recording unacknowledged deed**

A person interested in a deed or lease not acknowledged may cause the deed or lease to be recorded without acknowledgment before or during the application to the court, or the proceedings before any of the authorities named in sections 371-376 of this title; and, when so recorded in the proper office, it shall be as effectual as though the same had been duly acknowledged and recorded for sixty days thereafter. If such proceedings for proving the execution of the deed are pending at the expiration of such sixty days, the effect of such record shall continue until the expiration of six days after the termination of the proceedings.