

2022 -- H 7363 SUBSTITUTE B

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- JUSTICES OF THE PEACE --
UNIFORM LAW ON NOTARIAL ACTS

Introduced By: Representatives Casimiro, and Noret

Date Introduced: February 04, 2022

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-30-5 of the General Laws in Chapter 42-30 entitled "Justices of
2 the Peace" is hereby amended to read as follows:

3 **42-30-5. Application for appointment.**

4 (a) Application. Any individual desiring to be appointed a justice of the peace shall make
5 written application to the governor over his or her own signature.

6 (b) Qualifications of applicants:

7 (1) The person qualified for a justice of the peace commission shall be at least eighteen
8 (18) years of age and reside legally ~~or conduct business on a regular basis~~ within Rhode Island; and

9 (2) The applicant for appointment to the office of justice of the peace can speak, read, and
10 write the English language and has sufficient knowledge of the powers and duties pertaining to that
11 office.

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

16 (d) Any person making written application to be appointed a justice of the peace shall, at
17 the time of application, pay to the secretary of state the sum of eighty dollars (\$80.00).

18 SECTION 2. Sections 42-30.1-2, 42-30.1-3, 42-30.1-4, 42-30.1-5, 42-30.1-6 and 42-30.1-

1 12 of the General Laws in Chapter 42-30.1 entitled "Uniform Law on Notarial Acts" are hereby
2 amended to read as follows:

3 **42-30.1-2. Definitions.**

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

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

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

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

11 (4) "Communication technology" means an electronic device or process that:

12 (i) Allows simultaneous communication by sight and sound between a notary public and a
13 remotely located individual; and

14 (ii) When necessary and consistent with other applicable law, facilitates communication
15 with a remotely located individual who has a vision, hearing, or speech impairment by providing
16 reasonable accommodations.

17 ~~(4)~~(5) "Electronic" means relating to technology having electrical, digital, magnetic,
18 wireless, optical, electromagnetic, or similar capabilities.

19 ~~(5)~~(6) "Electronic signature" means an electronic symbol, sound, or process attached to, or
20 logically associated with, a record and executed or adopted by an individual with the intent to sign
21 the record.

22 (7) "Foreign state" means a jurisdiction other than the United States, a state, territory, or a
23 federally recognized Indian tribe.

24 (8) "Identity proofing" means a process or service by which a third person provides a notary
25 public with a means to verify the identity of a remotely located individual by a review of personal
26 information from public or private data sources.

27 ~~(6)~~(9) "In a representative capacity" means acting as:

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

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

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

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

34 ~~(7)~~(10) "Notarial act" means an act, whether performed with respect to a tangible or

1 electronic record, that a notarial officer may perform under the law of this state. The term includes
2 taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or
3 affirmation, witnessing or attesting a signature, certifying or attesting a copy, noting a protest of a
4 negotiable instrument and transact, do and finish all matters and things relating to protests and
5 protesting bills of exchange and promissory notes, and all other matters within their office required
6 by law, take depositions as prescribed by law, and acknowledgments of deeds and other
7 instruments.

8 ~~(8)~~[\(11\)](#) "Notarial officer" means a notary public or other individual authorized to perform
9 a notarial act.

10 ~~(9)~~[\(12\)](#) "Notary public" means an individual commissioned to perform a notarial act by the
11 commissioning officer.

12 ~~(10)~~[\(13\)](#) "Official stamp" means a physical image affixed to a tangible record or an
13 electronic image attached to, or logically associated with, an electronic record.

14 [\(14\) "Outside the United States" means a location outside the geographic boundaries of the](#)
15 [United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession,](#)
16 [or other location subject to the jurisdiction of the United States.](#)

17 ~~(11)~~[\(15\)](#) "Person" means an individual, corporation, business trust, statutory trust, estate,
18 trust, partnership, limited-liability company, association, joint venture, public corporation,
19 government or governmental subdivision, agency, or instrumentality, or any other legal or
20 commercial entity.

21 ~~(12)~~[\(16\)](#) "Record" means information that is inscribed on a tangible medium or that is
22 stored in an electronic or other medium and is retrievable in perceivable form.

23 [\(17\) "Remotely located individual" means an individual who is not in the physical presence](#)
24 [of the notary public who performs a notarial act pursuant to § 42-30.1-12.1.](#)

25 ~~(13)~~[\(18\)](#) "Sign" means, with present intent to authenticate or adopt a record:

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

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

29 ~~(14)~~[\(19\)](#) "Signature" means a tangible symbol or an electronic signature that evidences the
30 signing of a record.

31 ~~(15)~~[\(20\)](#) "Stamping device" means:

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

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

1 ~~(16)~~(21) "State" means a state of the United States of America, the District of Columbia,
2 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the
3 jurisdiction of the United States.

4 ~~(17)~~(22) "Verification on oath or affirmation" means a declaration that a statement in a
5 record is true, made by an individual under oath or by affirmation before a notarial officer.

6 **42-30.1-3. Authority to perform notarial act.**

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

9 **(b) A notarial officer may certify that a tangible copy of an electronic record is an accurate**
10 **copy of the electronic record.**

11 **42-30.1-4. Requirements for certain notarial acts.**

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

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

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

23 **(d) A notarial officer who certifies or attests a copy of a record or an item that was copied**
24 **shall determine that the copy is a full, true, and accurate transcription or reproduction of the record**
25 **or item.**

26 **42-30.1-5. Personal appearance required.**

27 If a notarial act relates to a statement made in, or a signature executed upon, a record, the
28 individual making the statement or executing the signature shall appear personally before the
29 notarial officer. **For purposes of this section, personal appearance means that the principal and the**
30 **notary public communicate by communication technology at the time of the notarization; or that**
31 **the principal and notary public are physically close enough to communicate with each other at the**
32 **time of notarization.**

33 **42-30.1-6. Identification of individual.**

34 (a) A notarial officer has personal knowledge of the identity of an individual appearing

1 before the notarial officer if the individual is personally known to the notarial officer through
2 dealings sufficient to provide reasonable certainty ~~regarding that~~ the ~~legal~~ individual has the
3 identity ~~of the individual~~ claimed.

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

6 (1) By means of:

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

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

12 (2) By a verification on oath or affirmation of a credible witness personally appearing
13 before the notarial officer and known to the officer or whom the officer can identify on the basis of
14 a passport, driver's license, or government issued nondriver identification card, which is current or
15 expired not more than three (3) years before performance of the notarial act.

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

18 **42-30.1-12. Foreign notarial act.**

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

21 (b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or
22 constituent unit of the foreign state, or is performed under the authority of a multinational or
23 international governmental organization, the act has the same effect under the law of this state as if
24 performed by a notarial officer of this state.

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

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

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

1 SECTION 3. Chapter 42-30.1 of the General Laws entitled "Uniform Law on Notarial
2 Acts" is hereby amended by adding thereto the following sections:

3 **42-30.1-12.1. Notarial act performed for remotely located individual.**

4 (a) A remotely located individual may comply with § 42-30.1-5 by using communication
5 technology to appear before a notary public.

6 (b) A notary public located in this state may perform a notarial act using communication
7 technology for a remotely located individual if:

8 (1) The notary public:

9 (i) Has personal knowledge under § 42-30.1-6(a) of the identity of the individual;

10 (ii) Has satisfactory evidence of the identity of the remotely located individual by oath or
11 affirmation from a credible witness appearing before the notary public under § 42-30.1-6(b)(2); or

12 (iii) Has obtained satisfactory evidence of the identity of the remotely located individual
13 by using at least two (2) different types of identity proofing;

14 (2) The notary public is reasonably able to confirm that a record before the notary public
15 is the same record in which the remotely located individual made a statement or on which the
16 individual executed a signature;

17 (3) The notary public, or a person acting on behalf of the notary public, creates an audio-
18 visual recording of the performance of the notarial act; and

19 (4) For a remotely located individual located outside the United States:

20 (i) The record:

21 (A) Shall be filed with or relates to a matter before a public official or court, governmental
22 entity, or other entity subject to the jurisdiction of the United States; or

23 (B) Involves property located in the territorial jurisdiction of the United States or involves
24 a transaction substantially connected with the United States; and

25 (ii) The act of making the statement or signing the record is not prohibited by the foreign
26 state in which the remotely located individual is located.

27 (c) If a notarial act is performed under this section, the certificate of notarial act required
28 by § 42-30.1-12.2 and the short-form certificate provided in § 42-30.1-12.2 must indicate that the
29 notarial act was performed using communication technology.

30 (d) A short-form certificate provided in § 42-30.1-12.2(g) for a notarial act subject to this
31 section is sufficient if it:

32 (1) Complies with rules adopted under subsection (g)(1) of this section; or

33 (2) Is in the form provided in § 42-30.1-12.2(g) and contains a statement substantially as
34 follows: "This notarial act involved the use of communication technology."

1 (e) A notary public, a guardian, conservator, or agent of a notary public, or a personal
2 representative of a deceased notary public shall retain the audio-visual recording created under
3 subsection (b)(3) of this section, or cause the recording to be retained by a repository designated
4 by or on behalf of the person required to retain the recording. Unless a different period is required
5 by rule adopted under subsection (g)(4) of this section, the recording must be retained for a period
6 of at least ten (10) years after the recording is made.

7 (f) Before a notary public performs the notary public's initial notarial act under this section,
8 the notary public must notify the commissioning agency that the notary public will be performing
9 notarial acts with respect to remotely located individuals and identify the technologies the notary
10 public intends to use. If the commissioning agency has established standards under subsection (g)
11 of this section for approval of communication technology or identity proofing, the communication
12 technology and identity proofing must conform to the standards.

13 **42-30.1-12.2. Certificate of notarial act for a remotely located individual.**

14 (a) A notarial act for a remotely located individual pursuant to § 42-30.1-12.1 shall be
15 evidenced by a certificate. The certificate shall:

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

17 (2) Be signed and dated by the notarial officer and, if the notarial officer is a notary public,
18 be signed in the same manner as on file with the commissioning agency;

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

20 (4) Contain the title of office of the notarial officer; and

21 (5) If the notarial officer is a notary public, indicate the date of expiration, if any, of the
22 officer's commission.

23 (b) If a notarial act regarding a tangible record is performed by a notary public, an official
24 stamp shall be affixed to the certificate. If a notarial act is performed regarding a tangible record
25 by a notarial officer other than a notary public and the certificate contains the information specified
26 in subsections (a)(2), (a)(3), and (a)(4) of this section, an official stamp may be affixed to the
27 certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the
28 certificate contains the information specified in subsections (a)(2), (a)(3), and (a)(4) of this section,
29 an official stamp may be attached to or logically associated with the certificate.

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

32 (1) Is in a form otherwise permitted by the laws of this state;

33 (2) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act
34 was performed; or

1 (3) Sets forth the actions of the notarial officer and the actions are sufficient to meet the
2 requirements of the notarial act as provided in §§ 42-30.1-4, 42-30.1-5, and 42-30.1-6 or any other
3 applicable laws of this state.

4 (d) By executing a certificate of a notarial act, a notarial officer certifies that the notarial
5 officer has complied with the requirements and made the determinations specified in §§ 42-30.1-3,
6 42-30.1-4, and 42-30.1-5.

7 (e) A notarial officer may not affix the notarial officer's signature to, or logically associate
8 it with, a certificate until the notarial act has been performed.

9 (f) If a notarial act is performed regarding a tangible record, a certificate must be part of,
10 or securely attached to, the record. If a notarial act is performed regarding an electronic record, the
11 certificate must be affixed to, or logically associated with, the electronic record.

12 (g) The commissioning agency shall develop short form certificates of notarial acts, if
13 completed with the information required by subsections (a), (b) and (c) of this section, for the
14 following purposes:

- 15 (1) An acknowledgment in an individual capacity;
- 16 (2) An acknowledgment in a representative capacity;
- 17 (3) A verification on oath or affirmation;
- 18 (4) Witnessing or attesting a signature;
- 19 (5) Certifying a copy of a record.

20 **42-30.1-20.1. Fees to perform notarial acts.**

21 (a) A notary public may charge a fee not to exceed twenty-five dollars (\$25.00) per
22 document or notarization. All fees must be disclosed to any person utilizing the services of the
23 notary public prior to performance of the notarial act.

24 (b) In performing a notarial act for a remotely located individual pursuant to § 42-30.1-
25 12.1, a notary public may charge a fee not to exceed twenty-five dollars (\$25.00) per document or
26 notarization. All fees must be disclosed to any person utilizing the services of the notary public
27 prior to the performance of a notarial act pursuant to § 42-30.1-12.1.

28 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- JUSTICES OF THE PEACE --
UNIFORM LAW ON NOTARIAL ACTS

- 1 This act would provide amendments to the notary public laws to permit remote
- 2 notarization.
- 3 This act would take effect upon passage.

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