

# **HOUSE . . . . . No. 4398**

---

---

## The Commonwealth of Massachusetts

---

HOUSE OF REPRESENTATIVES, June 13, 2016.

The committee on Ways and Means, to whom was referred the Senate Bill regulating notaries public to protect consumers and the validity and effectiveness of recorded instruments (Senate, No. 2064), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4398.

For the committee,

BRIAN S. DEMPSEY.

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

By striking out all after the enacting clause and inserting in place thereof the following:—

1           SECTION 1. The introductory paragraph of section 30 of chapter 183 of the General  
2 Laws, as appearing in the 2014 Official Edition, is hereby amended by striking out the first  
3 sentence and inserting in place thereof the following sentence:- The acknowledgment of the  
4 execution of a deed or other written instrument required to be acknowledged shall be by 1 or  
5 more of the grantors or by any attorneys or representatives executing it on behalf of the grantors.

6           SECTION 2. Said chapter 183 is hereby further amended by striking out section 42, as  
7 so appearing, and inserting in place thereof the following section:-

8           Section 42. The forms set forth in the appendix to this chapter and in section of chapter  
9 222 for taking acknowledgments to deeds and other instruments and for certifying the authority  
10 of officers taking proofs or acknowledgments may be used but the existence of those forms shall  
11 not preclude the use of any other forms lawfully used as required or authorized by any general or  
12 special law or any regulation or executive order regulating notaries public, including forms that  
13 acknowledge the voluntary act of an individual executing a document in a representative  
14 capacity but fail to acknowledge the deed or instrument as the voluntary or free act of the  
15 principal or grantor. Any notarial certificate made in another jurisdiction shall be sufficient in

16 this commonwealth if the certificate is made in accordance with the laws of the place where the  
17 notarial act was made.

18 SECTION 3. Chapter 183 of the General Laws is hereby amended by adding the  
19 following section after section 38:

20 Section 38A. Recording of defectively acknowledged deed; effect. Notwithstanding any  
21 provision of this chapter to the contrary, an affidavit executed and recorded pursuant to section  
22 5B of this chapter, attesting to the proper acknowledgement of a recorded document containing  
23 an acknowledgement clause that omits the name of the party whose signature was acknowledged  
24 or otherwise includes a material defect, shall provide constructive notice of the existence of the  
25 document to a bona fide purchaser, either independently or in combination with the document.

26 SECTION 4. Chapter 185 of the General Laws is hereby amended by striking out section  
27 58, as so appearing, and inserting in place the following section:-

28 Section 58. Notwithstanding any provision of this chapter to the contrary, every  
29 conveyance, lien, attachment, order, decree, instrument or entry affecting registered land shall, if  
30 registered, filed or entered in the office of the assistant recorder of the district where the land to  
31 which such instrument pertains lies and duly noted on the certificate (s) of title for the land to  
32 which the instrument pertains, constitute constructive notice to all persons from the time of such  
33 registering, filing or entering.

34 SECTION 5. Chapter 222 of the General Laws is hereby amended by striking out section  
35 1, as so appearing, and inserting in place thereof the following 2 sections:-

36           Section 1. For the purposes of this chapter, the following words shall have the following  
37 meanings unless the context clearly requires otherwise:

38           “Acknowledgment”, a notarial act in which an individual, at a single time and place  
39 appears, in person, before a notary public, is identified by the notary public through satisfactory  
40 evidence of identity and presents a document to the notary public and indicates to the notary  
41 public that the signature on the document before the notary was voluntarily affixed by the  
42 individual for the purposes stated within the document or that the signature on the document was  
43 the individual’s free act and deed and, if applicable, that the individual was authorized to sign in  
44 a particular representative capacity.

45           “Affirmation”, a notarial act, or part thereof, that is legally equivalent to an oath and in  
46 which an individual, at a single time and place appears, in person, before a notary public, is  
47 identified by the notary public through satisfactory evidence of identity and the individual makes  
48 a vow of truthfulness or fidelity under the penalties of perjury without invoking a deity.

49           “Copy certification”, a notarial act in which a notary public is presented with a document  
50 that the notary public copies, or supervises the copying thereof, by a photographic or electronic  
51 copying process, compares the original document to the copy and determines that the copy is  
52 accurate and complete.

53           “Credible witness”, an honest, reliable and impartial person who personally knows an  
54 individual appearing before a notary and who takes an oath or affirmation before the notary to  
55 vouch for that individual's identity.

56           “Journal”, a permanently bound book that creates and preserves a chronological record of  
57 notarial acts performed by a notary public.

58           “Jurat”, a notarial act in which an individual, at a single time and place appears, in  
59 person, before a notary public, is identified by the notary public through satisfactory evidence of  
60 identity and: (i) presents a document; (ii) signs the document in the presence of the notary public;  
61 and (iii) takes an oath or affirmation before the notary public vouching for the truthfulness or  
62 accuracy of the contents of the signed document.

63           “Notarial act”, an act that a notary public is empowered to perform; a notarization.

64           “Notarial certificate”, the part of or attachment to a notarized document for completion  
65 by the notary that bears the notary public’s signature and seal and states the venue, date and facts  
66 that are attested by the notary public in a particular notarial act or notarization.

67           “Notary public”, a person commissioned to perform official acts pursuant to Article IV of  
68 the Amendments of the Constitution; a notary.

69           “Oath”, a notarial act, or part thereof, that is legally equivalent to an affirmation and in  
70 which an individual, at a single time and place, appears in person before a notary public, is  
71 identified by the notary public through satisfactory evidence of identity and takes a vow of  
72 truthfulness or fidelity under the penalties of perjury by invoking a deity.

73           “Official misconduct”, a violation of sections 13 to 24, inclusive, or any other general or  
74 special law in connection with a notarial act or a notary public’s performance of an official act in  
75 a manner found to be grossly negligent or against the public interest.

76           “Personal knowledge of identity”, familiarity with an individual resulting from  
77 interactions with that individual over a period of time sufficient to ensure beyond doubt that the  
78 individual is the person whose identity is claimed.

79           “Principal”, a person whose signature is notarized or a person taking an oath or  
80 affirmation before a notary public.

81           “Regular place of work or business”, a place where an individual spends a substantial  
82 portion of their working or business hours.

83           “Satisfactory evidence of identity”, identification of an individual based on: (i) at least 1  
84 current document issued by a federal or state government agency bearing the photographic image  
85 of the individual’s face and signature; (ii) the oath or affirmation of a credible witness unaffected  
86 by the document or transaction who is personally known to the notary public and who personally  
87 knows the individual; or (iii) identification of an individual based on the notary public's personal  
88 knowledge of the identity of the principal; provided, however, that for a person who is not a  
89 United States citizen, "satisfactory evidence of identity" shall mean identification of an  
90 individual based on a valid passport or other government-issued document evidencing the  
91 individual's nationality or residence and which bears a photographic image of the individual's  
92 face and signature.

93           “Signature witnessing”, a notarial act in which an individual, at a single time and place,  
94 appears, in person, before a notary public, is identified by the notary public through satisfactory  
95 evidence of identity and presents a document and signs the document in the presence of the  
96 notary public.

97           Section 1A. Justices of the peace and notaries public shall be appointed and their  
98 commissions shall be issued for the commonwealth. Justices of the peace and notaries public  
99 shall have jurisdiction throughout the commonwealth when acting under the sole authority of  
100 such a commission and shall perform their duties subject to sections 8 to 26, inclusive. Unless

101 otherwise expressly provided, justices of the peace and notaries public may administer oaths or  
102 affirmations in all cases in which an oath or affirmation is required and take acknowledgments of  
103 deeds and other instruments.

104 SECTION 6. Said chapter 222 is hereby further amended by striking out sections 8 and  
105 8A, as so appearing, and inserting in place thereof the following section:-

106 Section 8. (a) When taking an acknowledgment of an instrument or administering an  
107 oath for an instrument filed in court, a justice of the peace, notary public or other person duly  
108 authorized shall print or type such justice of the peace, notary public or other person's name  
109 directly below such person's signature and affix thereto the date of the expiration of such  
110 person's commission in the following language: "My commission expires \_\_\_\_\_."

111 (b) A notary public shall keep an official notarial seal or stamp that shall be the exclusive  
112 property of the notary public. A notary public shall not permit another to use such notarial seal  
113 or stamp. A notary public shall obtain a new seal or stamp upon renewal of the commission,  
114 upon receipt of a new commission or if the name of the notary public has changed. The notarial  
115 seal or stamp shall include: (i) the notary public's name exactly as indicated on the commission;  
116 (ii) the words "notary public" and "Commonwealth of Massachusetts" or "Massachusetts"; (iii)  
117 the expiration date of the commission in the following words: "My commission expires \_\_\_\_";  
118 and (iv) a facsimile of the seal of the commonwealth. If a notarial seal that requires ink is  
119 employed, black ink shall be used. The requirements of this subsection shall be satisfied by  
120 using a stamp and a seal that, together, include all of the information required by this section.  
121 Failure to comply with this section shall not affect the validity of any instrument or the record  
122 thereof.

123 SECTION 7. Section 11 of said chapter 222, as so appearing, is hereby amended by  
124 striking out the first paragraph and inserting in place thereof the following paragraph:-

125 Persons serving in or with the armed forces of the commonwealth or other reserve  
126 component commands when conducting mobilization exercises and soldier readiness processing  
127 or the armed forces of the United States or their dependents, wherever located, may acknowledge  
128 any instrument in the manner and form required by law before a commissioned officer in the  
129 active service of the armed forces of the commonwealth or the United States with the rank of  
130 second lieutenant or higher in the army, air force or marine corps or ensign or higher in the navy  
131 or United States Coast Guard. Any such instrument shall contain a statement that the person  
132 executing the instrument is serving in or with the armed forces of the commonwealth or other  
133 reserve component command when conducting mobilization exercises and soldier readiness  
134 processing or the armed forces of the United States or is a dependent of any such person. No  
135 such instrument shall be rendered invalid by the failure to state in the instrument the place of  
136 execution or acknowledgment.

137 SECTION 8. Said chapter 222 is hereby further amended by striking out section 12, as  
138 so appearing, and inserting in place thereof the following 15 sections:-

139 Section 12. Notwithstanding section 22 or any other general or special law to the  
140 contrary, a notary public who is an attorney or who is employed by an attorney and by virtue of  
141 such employment performs notary public duties shall not be required to maintain a journal.

142 Section 13. (a) A person qualified for a notary public commission shall be at least 18  
143 years of age and reside or have a regular place of work or business within the commonwealth.

144 (b) In the governor's discretion, an application for appointment, reappointment or  
145 renewal of a commission may be denied based on:

146 (i) submission of an official application containing a material misstatement or  
147 omission of fact;

148 (ii) the applicant's conviction of an offense that resulted in a prison sentence;

149 (iii) the applicant's conviction of a misdemeanor offense that resulted in a sentence to  
150 probation or a fine or a conviction for a violation of paragraph (a) of subdivision (1) of section  
151 24 of chapter 90 or subsection (a) of section 8 of chapter 90B;

152 (iv) the applicant's admission to sufficient facts to warrant a finding of guilt of any  
153 offense;

154 (v) a finding or admission of responsibility or liability against the applicant in a civil  
155 action based on the applicant's fraud or deceit;

156 (vi) revocation, suspension, restriction or denial of a notary public commission or  
157 professional licensure by the commonwealth or any other jurisdiction; or

158 (vii) any other reason, including official misconduct, that in the governor's discretion,  
159 would render the applicant unsuitable to hold a notary public commission.

160 Section 14. A person commissioned as a notary public may perform notarial acts in any  
161 part of the commonwealth for a term of 7 years unless the commission is earlier revoked or the  
162 notary public resigns.

163 Section 15. (a) A notary public may perform the following notarial acts: (i)  
164 acknowledgments; (ii) oaths and affirmations; (iii) jurats; (iv) signature witnessings; (v) copy  
165 certifications; (vi) issuing summonses for witnesses pursuant to section 1 of chapter 233; (vii)  
166 issuing subpoenas; and (viii) witnessing the opening of a bank safe, vault or box pursuant to  
167 section 32 of chapter 167.

168 (b) A notary public shall take the acknowledgment of the signature or mark of persons  
169 acknowledging for themselves or in any representative capacity by using substantially the  
170 following form:

171 “On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public,  
172 \_\_\_\_\_ (name of document signer) personally appeared, proved to me  
173 through satisfactory evidence of identification, which were \_\_\_\_\_, to be  
174 the person whose name is signed on the preceding or attached document, and acknowledged to  
175 me that (he) (she) signed it voluntarily for its stated purpose.

176 (as partner for \_\_\_\_\_, a partnership)

177 (as \_\_\_\_\_ for \_\_\_\_\_, a corporation or other entity)

178 (as attorney in fact for \_\_\_\_\_, the principal)

179 (as \_\_\_\_\_ for \_\_\_\_\_, (a) (the) \_\_\_\_\_)

180 as the voluntary act of the (partnership)(corporation or other entity)(principal)(  
181 ).

182 \_\_\_\_\_ (official signature and seal of notary public)”.

183 (c) A notary public shall use a jurat certificate in substantially the following form in  
184 notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

185 “On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public,  
186 \_\_\_\_\_ (name of document signer) personally appeared, proved to me  
187 through satisfactory evidence of identification, which were \_\_\_\_\_, to be  
188 the person who signed the preceding or attached document in my presence and who swore or  
189 affirmed to me that the contents of the document are truthful and accurate to the best of (his)  
190 (her) knowledge and belief.

191 \_\_\_\_\_ (official signature and seal of notary public)”

192 (d) A notary public shall witness a signature in substantially the following form in  
193 notarizing a signature or mark to confirm that it was affixed in the notary public's presence  
194 without administration of an oath or affirmation:

195 “On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public,  
196 \_\_\_\_\_ (name of document signer) personally appeared, proved to me  
197 through satisfactory evidence of identification, which were \_\_\_\_\_, to be  
198 the person whose name is signed on the preceding or attached document in my presence.

199 \_\_\_\_\_ (official signature and seal of notary public)”.

200 (e) A notary public shall certify a copy by using substantially the following form:

201 “On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, I certify that the (preceding) (following)  
202 (attached) document is a true, exact, complete and unaltered copy made by me of

203 \_\_\_\_\_ (description of the document), presented to me by  
204 \_\_\_\_\_.

205 \_\_\_\_\_ (official signature and seal of notary public)”

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

208 (i) the principal affixes the mark in the presence of the notary public and 2 witnesses  
209 unaffected by the document;

210 (ii) both witnesses sign their own names beside the mark; and

211 (iii) the notary public notarizes the signature by mark through an acknowledgment,  
212 jurat or signature witnessing.

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

215 (i) the principal directs the notary public to do so in the presence of 2 witnesses who  
216 are unaffected by the document;

217 (ii) the principal does not have a demeanor that causes the notary public to have a  
218 compelling doubt about whether the principal knows the consequences of the transaction or  
219 document requiring the notarial act;

220 (iii) in the notary public’s judgment, the principal is acting of the principal’s own free  
221 will;

222 (iv) the notary public signs the principal's name in the presence of the principal and  
223 the witnesses;

224 (v) both witnesses sign their own names beside the signature;

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

227 (vii) the notary public notarizes the signature through an acknowledgment, jurat or  
228 signature witnessing.

229 (h) This section shall not require a notary public to use the forms in this section if  
230 another form of acknowledgment, jurat, signature witnessing or copy certification is: (i) required  
231 or allowed by any court rule or court form or by any court rule or directive, including, with  
232 respect to documents presented for filing with the land court and its land registration districts, the  
233 rules, forms, directives and guidelines of the land court or (ii) is required by any general or  
234 special law including, but not limited to, section 2-504 of chapter 190B, any federal law or any  
235 regulation adopted pursuant to any such law; provided, however, that the forms in this section  
236 may be used in lieu of any equivalent form authorized or promulgated by any such law or  
237 regulation including, but not limited to, section 42 of chapter 183 and the forms in the appendix  
238 to said chapter 183 if any such law or regulation does not expressly prohibit the use of other  
239 forms.

240 (i) This section shall not require a notary public to use the forms in this section if the  
241 form of acknowledgment, jurat, signature witnessing or copy certification of a document  
242 contains an alternative form from another state if the document is to be filed or recorded in or  
243 governed by the laws of the other state.

244 (j) This section shall not require a notary public to use the forms in this section if the  
245 form of acknowledgment, jurat, signature witnessing or copy certification appears on a printed  
246 form that contains an express prohibition against altering such form.

247 Section 16. (a) A notary public shall not perform a notarial act if:

248 (i) the principal is not in the notary public's presence at the time of notarization;

249 (ii) the principal is not identified by the notary public through satisfactory evidence of  
250 identity;

251 (iii) the principal has a demeanor that causes the notary public to have a compelling  
252 doubt about whether the principal knows the consequences of the transaction or document  
253 requiring the notarial act;

254 (iv) in the notary public's judgment, the principal is not acting of the principal's own  
255 free will;

256 (v) the notary public is a party to or is named in the document that is to be notarized  
257 unless: (1) the notary public is named in the document for the sole purpose of receiving notices  
258 relating to the document; or (2) the notary public is licensed as an attorney in the commonwealth  
259 or is employed by an attorney so licensed and is named as an executor, trustee or any other  
260 fiduciary capacity in a document;

261 (vi) the notary public will receive as a direct result of the notarial act any commission,  
262 fee, advantage, right, title, interest, cash, property or other consideration exceeding the maximum  
263 fees provided in section 41 of chapter 262 or any other general or special law or executive order,  
264 or has any financial interest in the subject matter of the document; provided, however, that this

265 clause shall not preclude a notary public who is licensed as an attorney in the commonwealth or  
266 who is employed by an attorney so licensed from performing notarial acts relative to any  
267 document in connection with which the attorney receives a legal fee for professional legal  
268 services; or

269 (vii) the notary public is a spouse, domestic partner, parent, guardian, child or sibling  
270 of the principal, including in-law, step or half relatives, except if a principal witnesses a will or  
271 other legal document prepared by the notary public who is an attorney licensed in the  
272 commonwealth, or if the notary is employed by any such attorney.

273 (b) A notary public shall not refuse to perform a notarial act solely based on the  
274 principal's race, age, sex, gender identity, sexual orientation, religion, national origin, health,  
275 disability or status as a nonclient or noncustomer of the notary public or the notary public's  
276 employer.

277 (c) A nonattorney notary public shall not influence a person to enter into or avoid a  
278 transaction involving a notarial act by the notary public; provided, however, that the notary  
279 public may provide assistance relating to that transaction if the notary public is duly qualified,  
280 trained or acting pursuant to a standard or practice recognized in a particular industry or  
281 professional field in selecting, drafting or completing a certificate or other document related to a  
282 matter within such industry or field.

283 (d) A notary public shall not execute a certificate containing information which the  
284 notary public knows or believes to be false.

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

287 (f) A notary public shall not provide or send a signed or sealed notarial certificate to  
288 another person with the understanding that it will be completed or attached to a document  
289 outside of the notary public's presence; provided, however, that in connection with a  
290 commercial, nonconsumer transaction, a notary public may deliver a signed, sealed or signed and  
291 sealed notarial certificate to an attorney with the understanding that: (i) the attorney shall attach  
292 the certificate to a document outside of the notary public's presence; (ii) the attorney shall hold  
293 such notarial certificate in escrow; and (iii) the attorney shall obtain the approval of any  
294 principals involved before attaching the certificate to the document.

295 (g) A notary public shall not notarize a signature on a blank or incomplete document,  
296 except as provided in subsection (f).

297 (h) A notary public shall not perform any official notarial act with the intent to deceive  
298 or defraud.

299 (i) A notary public shall not use the term "notario" or "notario publico" or any equivalent  
300 non-English term in a business card, advertisement, notice or sign.

301 (j) A notary public shall not claim to have powers, qualifications, rights or privileges that  
302 the office of notary public does not provide.

303 Section 17. (a) A notary public shall not advise clients, offer legal advice or represent or  
304 advertise the notary public as a legal specialist or consultant unless the notary public is an  
305 attorney licensed to practice law in the commonwealth. A notary public shall not state or imply  
306 in any communication that the notary public can or will obtain special favors from or has special  
307 influence with a government agency. A notary public who is not licensed to practice law in the  
308 commonwealth shall not make a literal translation of the notary public's status as "licensed" or

309 as a “notary public” into a language other than English without regard to the true meaning of the  
310 word or phrase in that language or use any other term that implies that the notary public is an  
311 attorney so licensed, in any document, including an advertisement, stationery, letterhead,  
312 business card or other written or broadcast material describing the notary public or the notary  
313 public’s services.

314 (b) A notary public who is not an attorney licensed to practice law in the commonwealth:

315 (i) shall not offer legal advice or advise a client as to the immigration status of a client,  
316 secure or attempt to secure supporting documents including, but not limited to, birth certificates,  
317 necessary to complete a client’s immigration forms or submit completed immigration forms on a  
318 client’s behalf to any governmental agency;

319 (ii) may translate questions presented on an immigration form for another person and  
320 may complete those forms at the explicit direction of such other person only if the translation of  
321 such other person’s answers is necessary; and

322 (iii) prior to providing services of any kind related to an immigration matter or any  
323 matter that could influence or affect a person’s immigration status, shall provide a client with a  
324 written statement that states “I am not an attorney licensed to practice law. I may not give you  
325 legal advice or advise you about immigration policies or procedures. You should seek the advice  
326 of a qualified attorney to assist you with any legal questions or with questions about legal status  
327 under immigration law.”

328 (c) Subsection (b) shall not apply to:

329 (i) an attorney licensed to practice law in any state or territory of the United States or in a  
330 foreign country when authorized by the supreme judicial court, to the extent the attorney renders  
331 immigration assistance service in the course of the attorney's practice as an attorney;

332 (ii) a paralegal, legal intern or law student employed by an attorney so licensed and  
333 rendering immigration assistance in the course of the intern's or student's employment; and

334 (iii) an organization employing or desiring to employ a person who is not a citizen of  
335 the United States if the organization, its employees or agents provide advice or assistance in  
336 immigration-related matters to noncitizen employees or potential employees without  
337 compensation from the individuals to whom such advice or assistance is provided.

338 (d) A notary public who is not an attorney shall not engage in the practice of law. This  
339 subsection shall not preclude a notary public who is duly qualified, trained or experienced in a  
340 particular industry or professional field from selecting, drafting or completing a certificate or  
341 other document related to a matter within that industry or field.

342 (e) A notary public who is not an attorney licensed to practice law in the commonwealth  
343 shall not conduct a real estate closing and shall not act as a real estate closing agent; provided,  
344 however, that a notary public who is employed by an attorney so licensed may notarize a  
345 document in conjunction with a real estate closing conducted by the attorney and a notary public  
346 who is employed by a lender may notarize a document in conjunction with the closing of such  
347 lender's real estate loans.

348 (f) This section shall apply to a notary public and to any person who employs, contracts  
349 with or otherwise uses the services of a notary public with knowledge or reason to know of  
350 conduct that is in violation of this section.

351           Section 18. (a) The attorney general or district attorney may prosecute any person  
352 committing a violation of this chapter. A person convicted of committing a violation of this  
353 chapter shall be punished for a first offense by a fine of not more than \$1,000 or by  
354 imprisonment in a jail or house of correction for not more than 6 months, or by both such fine  
355 and imprisonment, and, for a second or subsequent offense, by a fine of not more than \$5,000 or  
356 by imprisonment in a jail or house of correction for not more than 1 year, or by both such fine  
357 and imprisonment. The attorney general or district attorney may file a petition for injunctive  
358 relief against any person who violates this chapter. If the attorney general, district attorney or the  
359 state secretary has cause to believe that, as a result of official misconduct, a person holding the  
360 office of notary public is unsuitable to hold that office, the attorney general, district attorney or  
361 state secretary shall provide notice to the governor of such official misconduct. Any conviction  
362 based on a violation of this chapter shall be grounds for the revocation of a notary public's  
363 appointment. If the court finds that a person so convicted either knew or should have known that  
364 the conduct would be in violation of this chapter, the court may require such person to pay a  
365 civil penalty of not more than \$5,000 for each such violation and may also require the person to  
366 pay the reasonable costs of investigation and litigation of the violation, including reasonable  
367 attorneys' fees.

368           (b) A person having an interest or right that is or may be adversely affected by a  
369 violation of section 17 may initiate an action for private remedies and, if the attorney general or  
370 district attorney has not done so, for injunctive relief. Such person may be awarded actual  
371 damages and, if the court finds that the person against whom the action is brought either knew or  
372 should have known the conduct would be in violation of said section 17, punitive damages of not  
373 more than \$5,000 per violation, attorneys' fees and court costs.

374 (c) A violation of section 17 shall constitute an unfair or deceptive act or practice  
375 pursuant to chapter 93A.

376 (d) It shall not be a defense in an action pursuant to this section that the conduct that is  
377 the subject of the action, in whole or in part, occurred primarily or substantially outside the  
378 commonwealth.

379 Section 19. A notary public shall perform a notarial act for any person requesting such  
380 act who tenders the fee provided for in section 41 of chapter 262 or any other general or special  
381 law or executive order, unless:

382 (i) the notary public knows or has reason to believe that the notarial act or the associated  
383 transaction is unlawful;

384 (ii) the principal has a demeanor that causes the notary public to have a compelling  
385 doubt about whether the principal knows the consequences of the transaction or document  
386 requiring the notarial act;

387 (iii) the act is prohibited by this chapter or any other applicable law; or

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

390 Section 20. (a) A notary public shall not be authorized or required to investigate,  
391 ascertain or attest to the lawfulness, propriety, accuracy or truthfulness of a document or  
392 transaction involving a notarial act.

393 (b) Except as may be required by the office of the state secretary for the issuance of an  
394 apostille, and provided the form of acknowledgement, jurat, signature witnessing or copy  
395 certification otherwise complies with the requirements of this chapter:

396 (i) failure of a document to contain the forms of acknowledgment, jurat, signature  
397 witnessing or copy certification set forth in section 15 or otherwise to comply with the  
398 requirements set forth in sections 8 to 23, inclusive, shall not have any effect on the validity of  
399 the underlying document or the recording of the underlying document;

400 (ii) failure of a document to contain the forms of acknowledgment, jurat, signature  
401 witnessing or copy certification set forth in said section 15 shall not be the basis of a refusal to  
402 accept the document for filing, recordation, registration or acceptance by a third party; and

403 (iii) failure of a document executed in a representative capacity to contain an  
404 acknowledgment that the instrument was also the voluntary or free act and deed of the principal  
405 or grantor shall not affect the validity of the underlying document or the recording of the  
406 document.

407 (c) Nothing shall prevent the land court from issuing rules, regulations, directives, orders  
408 and guidelines governing the forms of acknowledgements and jurats to be complied with for the  
409 filing and registration of documents with the land court and its land registration districts.

410 Section 21. A notary public who is not an attorney who advertises notarial services in a  
411 language other than English shall include in the advertisement, notice, letterhead or sign the  
412 following statement prominently displayed in the same language: "I am not an attorney and I  
413 have no authority to give advice on immigration or other legal matters."

414 Section 22. (a) Except as provided in subsection (f), a notary public shall keep,  
415 maintain, protect and provide for lawful inspection a chronological official journal of notarial  
416 acts performed by the notary public. The journal shall be a permanently bound book with  
417 numbered pages, except as otherwise provided in this section.

418 (b) A notary public shall keep not more than 1 active journal at the same time.

419 (c) For every notarial act, except for the issuance of a summons or subpoena or the  
420 administration of an oral oath, the notary public shall record in the journal at the time of the  
421 notarization:

422 (i) the date and time of the notarial act, proceeding or transaction;

423 (ii) the type of notarial act;

424 (iii) the type, title or a description of the document, transaction or proceeding; provided,  
425 however, that if multiple documents are signed by the same principal in the course of a  
426 transaction or during a single date, a single journal entry shall be sufficient;

427 (iv) the signature and printed name and address of each principal and witness, except  
428 that if a principal or witness informs the notary public that the principal or witness is a battered  
429 person, the notary public shall make a note in the journal that the person's address shall not be  
430 subject to public inspection; and

431 (v) a description of the satisfactory evidence of identity of each person, including:

432 (1) a notation of the type of identification document, the issuing agency, its serial or  
433 identification number and its date of issuance or expiration; provided, however, that if the  
434 identification number on the document is the person's social security number then, instead of

435 including the number, the notary public shall write in the words “Social Security number” or the  
436 acronym “SSN”;

437 (2) a notation if the notary public identified the individual on the oath or affirmation of a  
438 credible witness or based on the notary public's personal knowledge of the individual;

439 (3) the fee, if any, charged for the notarial act; and

440 (4) the address where the notarization was performed.

441 (d) A notary public shall not record a social security or credit card number in the journal.

442 (e) A notary public shall record in the journal the reason for not completing a notarial act  
443 requested by a principal.

444 (f) A journal shall not be required for a notary public who is an attorney admitted to  
445 practice law in any jurisdiction or who is employed by any such attorney. If an attorney or  
446 person employed by an attorney elects to maintain a journal, this section shall not be construed to  
447 impair or infringe on the attorney-client privilege or the attorney work product doctrine.

448 A notary public who works for a government entity shall not be required to maintain a  
449 journal for the notarial acts performed in the course of that employment.

450 (g) Except as provided in subsection (f), a journal may be examined without restriction  
451 by a law enforcement officer in the course of an official investigation, subpoenaed by court order  
452 or surrendered at the direction of the state secretary. Nothing in this section shall prevent a  
453 notary public from seeking appropriate judicial protective orders.

454 (h) A notary public shall maintain and safeguard a journal and all other notarial records  
455 and shall surrender or destroy such records only as directed by law, court order or regulation or  
456 at the direction of the state secretary.

457 (i) If not in use, a journal shall be kept in a secure area under the exclusive control of the  
458 notary public and shall not be used by any other notary public or surrendered to an employer  
459 upon termination of employment.

460 Section 23. Notwithstanding section 41 of chapter 262, no fee shall be charged by a  
461 notary public to notarize a signature on an absentee ballot identification envelope or other voting  
462 materials or on any application or claim by a United States military veteran for a pension,  
463 allotment, allowance, compensation, insurance or other veterans' benefit.

464 Section 24. If a notary public's commission expires, is resigned or revoked, the notary  
465 public shall, as soon as reasonably practicable, destroy or deface all notary seals and stamps so  
466 that they shall not be used and shall retain the journal and records for 7 years after the date of  
467 expiration, resignation or revocation.

468 Section 25. Within 10 days after the change of a notary public's name, residence,  
469 business address or mailing address, the notary public shall send to the state secretary a signed  
470 notice of the change, providing both the old and new information.

471 Section 26. A notary public's commission may be revoked for official misconduct as  
472 defined in section 1 or for other good cause as determined by the governor with the consent of  
473 the governor's council.

474           SECTION 9. This act shall apply to all commissions of notaries public and justices of  
475 the peace authorized by chapter 222 of the General Laws, including commissions received or  
476 renewed before the effective date of this act.