

SENATE No. 1845

The Commonwealth of Massachusetts

PRESENTED BY:

Susan C. Tucker

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating notaries public to protect consumers .

PETITION OF:

NAME:

Susan C. Tucker

DISTRICT/ADDRESS:

Second Essex and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT REGULATING NOTARIES PUBLIC TO PROTECT CONSUMERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 222 of the General Laws is hereby amended by striking section 1
2 and inserting in place thereof the following section: Section 1. Justices of the peace and notaries
3 public shall be appointed, and their commissions shall be issued for the commonwealth. They
4 shall have jurisdiction throughout the commonwealth when acting under the sole authority of
5 such a commission, and shall perform their duties subject to the provisions of sections 8 through
6 27. Unless otherwise expressly provided, they may administer oaths or affirmations in all cases
7 in which an oath or affirmation is required, and take acknowledgments of deeds and other
8 instruments.

9 SECTION 2. Said chapter 222 of the General Laws is hereby amended by striking
10 sections 8 and 8A and inserting in place thereof the following section:
11 Section 8. (a) A justice of the peace, notary public, or other person duly authorized, when taking
12 acknowledgment of any instrument, or administering an oath with relation to an instrument filed
13 in court,, shall print or type his name directly below his signature and affix thereto the date of the
14 expiration of his commission in the following language: "My commission expires ____."

15 (b) A notary shall keep an official notarial seal or stamp that is the exclusive property of the
16 notary, may not be used by any other person, and shall meet the following requirements:

17 (1) A notary public shall obtain a new seal or stamp if the notary public renews his or her
18 commission, receives a new commission, or changes his or her name.

19 (2) The notarial seal or stamp shall include: the notary public's name exactly as indicated on the
20 commission; the words "notary public," "Commonwealth of Massachusetts" or "Massachusetts",
21 the date of the expiration of his commission in the following language: "My commission expires
22 ____"; and a facsimile of the great seal of the commonwealth.

23 (3) Each new notarial seal that uses ink shall use black ink.

24 (4) A notary public may satisfy the requirements of subsection (a) by using a stamp and a seal
25 that together include all of the information required thereby.

26 (5) Failure to comply with this section shall not affect the validity of any instrument, or the
27 record thereof.

28 SECTION 3. Section 11 of said chapter 222 of the General Laws is hereby amended by
29 inserting after the word "dependents," in line 1, the following words: or members of the
30 Massachusetts National Guard or other Reserve Component Commands when conducting
31 mobilization exercises and Soldier Readiness Processing.

32 SECTION 4. Said chapter 222 of the General Laws is hereby amended by striking section
33 12 and inserting in place thereof the following section:
34 Section 12. Notwithstanding the provisions of section 23 or any other general law, rule,
35 regulation or order to the contrary, a notary public who is an attorney or who is employed by an
36 attorney shall not be required to maintain a journal of notary transactions.

37 SECTION 5. Chapter 222 of the General Laws is hereby amended by adding the
38 following fifteen sections:

39 Section 13. For the purposes of this chapter the following words shall have the following
40 meanings:

41 "Acknowledgment" shall mean a notarial act in which an individual, at a single time and place
42 appears in person before the notary public and presents a document; is identified by the notary
43 public through satisfactory evidence of identity; and indicates to the notary public that the
44 signature on the document was voluntarily affixed by the individual for the purposes stated
45 within the document and, if applicable, that the individual had authority to sign in a particular
46 representative capacity.

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

51 "Copy certification" shall mean a notarial act in which a notary public is presented with a
52 document; copies or supervises the copying of the document using a photographic or electronic
53 copying process; compares the document to the copy; and determines that the copy is accurate
54 and complete.

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

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

60 "Jurat" means a notarial act in which an individual, at a single time and place appears, in person
61 before the notary public and presents a document; is identified by the notary public through
62 satisfactory evidence of identity; signs the document in the presence of the notary public; and
63 takes an oath or affirmation before the notary vouching for the truthfulness or accuracy of the
64 signed document.

65 "Notarial act" and "notarization" shall mean any act that a notary public is empowered to
66 perform.

67 "Notary public" or "notary" shall mean any person commissioned to perform official acts
68 pursuant to Article IV of the Articles of Amendment of the Constitution of the commonwealth.

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

73 "Official misconduct" shall mean a notary's performance of any act prohibited, or failure to
74 perform any act mandated, by sections 14 through 25, or by any other law, in connection with a
75 notarial act; or a notary's performance of an official act in a manner found to be grossly
76 negligent or against the public interest.

77 "Personal knowledge of identity" shall mean familiarity with an individual resulting from
78 interactions with that individual over a period of time sufficient to ensure beyond doubt that the
79 individual has the identity claimed.

80 "Principal" shall mean a person whose signature is notarized, or a person making an oath or
81 affirmation before a notary.

82 "Regular place of work or business" shall mean a place where one spends a substantial portion of

83 one's working or business hours.

84 "Satisfactory evidence of identity" shall mean identification of an individual based on at least
85 one current document issued by a Federal or state government agency bearing the photographic
86 image of the individual's face and signature; or on the oath or affirmation of a credible witness
87 unaffected by the document or transaction who is personally known to the notary and who
88 personally knows the individual; or identification of an individual based on the notary public's
89 personal knowledge of the identity of the principal. For a person who is not a United States
90 citizen, "satisfactory evidence of identity" shall mean identification of an individual based on a
91 valid passport, or another government-issued document evidencing the individual's nationality or
92 residence, that bears a photographic image of the individual's face and signature.

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

97 Section 14. (a) A person qualified for a notary public commission shall be at least 18 years of
98 age; reside legally or have a regular place of work or business within the commonwealth, and be
99 a United States citizen or have permanent residency status.

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

102 (1) submission of an official application containing a material misstatement or omission of fact;

103 (2) the applicant's felony conviction or misdemeanor conviction that resulted in a prison
104 sentence;

105 (3) the applicant's conviction of a misdemeanor with probation or a fine, or conviction for drunk

106 driving;

107 (4) the applicant's admission of facts sufficient to warrant a finding of guilt of any crime;

108 (5) a finding or admission of liability against the applicant in a civil lawsuit based on the

109 applicant's deceit;

110 (6) revocation, suspension, restriction, or denial of a notarial commission or professional license

111 by this or any other state; or

112 (7) any other reason, including for official misconduct as defined in section 13, that, within the

113 Governor's discretion, would make the applicant unsuitable to hold the commission as a notary

114 public.

115 Section 15. As set forth in Article IV of the Articles of Amendment to the Constitution of the

116 commonwealth, a person commissioned as a notary public may perform notarial acts in any part

117 of the commonwealth for a term of seven years, unless the commission is earlier revoked or the

118 notary resigns.

119 Section 16 (a) A notary public may perform the following notarial acts: acknowledgments; oaths

120 and affirmations; jurats; signature witnessings; copy certifications; issuance of summonses for

121 witnesses as set forth in section 1 of chapter 233; issuance of subpoenas; and witnessing the

122 opening of a bank safe, vault, or box as set forth in section 32 of chapter 167.

123 (b) A notary shall take the acknowledgment of the signature or mark of persons acknowledging

124 for themselves or in any representative capacity by using substantially the following form:

125 On this ____ day of _____, 20__, before me, the undersigned notary public, personally

126 appeared _____ (name of document signer), proved to me through

127 satisfactory evidence of identification, which were _____, to be the person

128 whose name is signed on the preceding or attached document, and acknowledged to me that (he)

129 (she) signed it voluntarily for its stated purpose.

130 (as partner for _____, a partnership)

131 (as _____ for _____, a corporation)

132 (as attorney in fact for _____, the principal)

133 (as _____ for _____, (a) (the) _____)

134 _____ (official signature and seal of notary)

135 (c) A notary shall use a jurat certificate in substantially the following form in notarizing a

136 signature or mark on an affidavit or other sworn or affirmed written declaration:

137 On this ____ day of _____, 20__, before me, the undersigned notary public, personally

138 appeared _____ (name of document signer), proved to me through

139 satisfactory evidence of identification, which were _____, to be the person

140 who signed the preceding or attached document in my presence, and who swore or affirmed to

141 me that the contents of the document are truthful and accurate to the best of (his) (her)

142 knowledge and belief.

143 _____ (official signature and seal of notary)

144 (d) A notary shall witness a signature in substantially the following form in notarizing a

145 signature or mark to confirm that it was affixed in the notary's presence without administration of

146 an oath or affirmation:

147 On this ____ day of _____, 20__, before me, the undersigned notary public, personally

148 appeared _____ (name of document signer), proved to me through

149 satisfactory evidence of identification, which were _____, to be the person

150 whose name is signed on the preceding or attached document in my presence.

151 _____ (official signature and seal of notary)

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

153 On this ____ day of _____, 20__, I certify that the (preceding) (following) (attached)

154 document is a true, exact, complete, and unaltered copy made by me of _____

155 (description of the document), presented to me by _____.

156 _____ (official signature and seal of notary)

157 (f) A notary public may certify the affixation of a signature by mark on a document presented for

158 notarization if:

159 (1) the principal affixes the mark in the presence of the notary public and of two witnesses

160 unaffected by the document;

161 (2) both witnesses sign their own names beside the mark;

162 (3) the notary writes below the mark: "Mark affixed by (name of signer by mark) in the presence

163 of (names and addresses of witnesses) and undersigned notary; and

164 (4) the notary public notarizes the signature by mark through an acknowledgment, jurat, or

165 signature witnessing.

166 (g) The notary public may sign the name of a principal who is physically unable to sign or make

167 a mark on a document presented for notarization if:

168 (1) the principal directs the notary to do so in the presence of two witnesses who are unaffected

169 by the document;

170 (2) the principal does not have a demeanor that causes the notary public to have a compelling

171 doubt about whether the principal knows the consequences of the transaction requiring the

172 notarial act;

173 (3) in the notary public's judgment, the principal is acting of his or her own free will;

174 (4) the notary public signs the principal's name in the presence of the principal and the

175 witnesses;

176 (5) both witnesses sign their own names beside the signature;

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

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

181 (h) This section does not require a notary public to use the forms set forth above if another form
182 of acknowledgment, jurat, signature witnessing, or copy certification is required or allowed by
183 the provisions of any court rule or court form; any provision of the general laws, including but
184 not limited to, section 42 of chapter 183, or the forms set forth in the appendix thereto, or section
185 2 of chapter 192; any Federal statute; or any regulation adopted pursuant to any such provision or
186 statute.

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

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

194 Section 17. (a) A notary public shall not perform a notarial act if:

195 (1) the principal is not in the notary's presence at the time of notarization;

196 (2) the principal is not identified by the notary through satisfactory evidence of identity;

197 (3) the principal has a demeanor that causes the notary public to have a compelling doubt about

198 whether the principal knows the consequences of the transaction or document requiring the
199 notarial act;

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

201 (5) the notary public is a party to or is named in the document that is to be notarized, except that
202 a notary public may notarize a document if the notary public is named in the document for the
203 sole purpose of receiving notices relating to the document and except that a notary public who is
204 licensed as an attorney in the commonwealth and is named as an executor, trustee or in any
205 fiduciary capacity in a document, or is employed by an attorney so licensed, may perform
206 notarial acts concerning such document;

207 (6) the notary public will receive as a direct result of the notarial act any commission, fee,
208 advantage, right, title, interest, cash, property, or other consideration exceeding the maximum
209 fees provided for in section 24, or has any financial interest in the subject matter of the
210 document. This section shall not preclude a notary public who is licensed as an attorney in the
211 commonwealth, or is employed by an attorney so licensed, from notarial acts concerning any
212 document in connection with which the attorney receives a legal fee for professional legal
213 services.

214 (7) the notary public is a spouse, domestic partner, parent, guardian, child, or sibling of the
215 principal, including in-law, step, or half relatives, except where a principal witnesses a will or
216 other legal document prepared by the notary public who is an attorney licensed in the
217 commonwealth.

218 (b) A notary public shall not refuse to perform a notarial act solely based on the principal's race,
219 advanced age, gender, sexual orientation, religion, national origin, health, disability, or status as
220 a non-client or non-customer of the notary public or the notary public's employer.

221 (c) A non-attorney notary public shall not influence a person either to enter into or avoid a
222 transaction involving a notarial act by the notary public, except that the notary public may
223 provide assistance relating to that transaction, if he or she is duly qualified, trained, or acting
224 pursuant to a standard or practice recognized in a particular industry or professional field in
225 selecting, drafting or completing a certificate or other document related to a matter within that
226 industry or field.

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

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

231 (f) A notary public shall not provide or send a signed or sealed notarial certificate to another
232 person with the understanding that it will be completed or attached to a document outside of the
233 notary public's presence, provided that in connection with a commercial, non-consumer
234 transaction, a notary public may deliver a signed, sealed, or signed and sealed notarial certificate
235 to an attorney with the understanding that: (i) the attorney will attach the certificate to a
236 document outside of the notary's presence; (ii) the attorney will hold such notarial certificate in
237 escrow; and (iii) the attorney informs the notary public that the attorney will obtain the approval
238 of the principal, or principals, involved before attaching the certificate to the document.

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

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

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

244 Section 18. (a) No notary public may advise clients, offer legal advice or represent or advertise
245 himself or herself as a legal specialist or consultant unless the individual is an attorney licensed
246 to practice law in the commonwealth. No notary public shall state or imply in any
247 communication that he can or will obtain special favors from or has special influence with any
248 government agency. No notary public who is not licensed to practice law in the commonwealth
249 shall make a literal translation of his or her status as “licensed” or as a “notary public” into a
250 language other than English without regard to the true meaning of the word or phrase in that
251 language, or use any other term that implies that the notary public is an attorney so licensed, in
252 any document, including an advertisement, stationery, letterhead, business card, or other written
253 or broadcast material describing the notary public or his services.

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

255 (1) shall not offer legal advice or advise clients as to their immigration status; secure or attempt
256 to secure supporting documents, such as birth certificates, necessary to complete a client’s
257 immigration forms; or submit completed immigration forms on a client’s behalf to any
258 governmental agency;

259 (2) may translate questions presented on an immigration form for another person and may
260 complete those forms at the explicit direction of that other person only where translation of that
261 other person’s answers is necessary; and

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

267 status under immigration law.”

268 (c) The provisions of subsection (b) shall not apply to the following persons:

269 (1) An attorney licensed to practice law in any state or territory of the United States, or of any
270 foreign country when authorized by the supreme judicial court, to the extent the attorney renders
271 immigration assistance service in the course of his or her practice as an attorney.

272 (2) A paralegal, legal intern or law student, employed by an attorney so licensed and rendering
273 immigration assistance in the course of the intern’s or student’s employment.

274 (3) Any organization employing or desiring to employ any person not a citizen of the United
275 States, where the organization, its employees or agents provide advice or assistance in
276 immigration-related matters to non-citizen employees or potential employees without
277 compensation from the individuals to whom such advice or assistance is provided.

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

282 (e) A notary public who is not an attorney licensed to practice law in the commonwealth, or who
283 is not employed by an attorney so licensed, shall not conduct a real estate closing and shall not
284 act as a real estate closing agent. A notary public who is employed by an attorney so licensed
285 may notarize a document in conjunction with a real estate closing conducted by the attorney. A
286 notary public who is employed by a lender may notarize a document in conjunction with the
287 closing of his or her employer's real estate loans.

288 (f) The provisions of this section shall also apply to any person who employs, contracts with or
289 otherwise uses the services of a notary public with knowledge or reason to know of conduct that

290 is in violation of this section.

291 Section 18A (a) The attorney general may prosecute any person committing a violation under
292 this chapter. Any person convicted of committing such violation shall be punished for a first
293 offense by a fine of not more than \$1,000 or by imprisonment in a jail or house of correction for
294 not more than six months, or by both such fine and imprisonment, and for subsequent offenses
295 by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not
296 more than one year, or by both such fine and imprisonment. The attorney general may file a
297 petition for injunctive relief against any person who violates this chapter. If the attorney general
298 or the state secretary has cause to believe that, as a result of official misconduct, a person holding
299 the office of notary public is unsuitable to hold that office, the attorney general or the state
300 secretary shall provide notice to the governor of such official misconduct. Any conviction based
301 on a violation of this chapter shall be grounds for the revocation of a notary's appointment. If
302 the court finds that a person so convicted either knew or should have known his conduct to be in
303 violation of this chapter, the court may require such person to pay to the commonwealth a civil
304 penalty of not more than five thousand dollars for each such violation and also may require the
305 said person to pay the reasonable costs of investigation and litigation of such violation, including
306 reasonable attorneys' fees.

307 (b) A person having an interest or right that is or may be adversely affected by a violation of
308 section 18 may initiate an action for private remedies and, if the attorney general has not done so,
309 for injunctive relief. Such person may be awarded his actual damages and, if the court finds that
310 person against whom the action is brought either knew or should have known his conduct to be
311 in violation of section 18, punitive damages of not more than \$5,000 per violation, and attorney's
312 fees and court costs.

313 (c) It shall not be a defense in an action under this section that the conduct that is the subject of
314 the action, in whole or in part, occurred primarily or substantially outside the commonwealth.

315 Section 19. (a) Any notary public who is not an attorney shall post signs at his or her place of
316 business, setting forth information in English and in every other language the person provides or
317 offers to provide services. Each language shall be on a separate sign. Signs shall be posted in a
318 conspicuous location where the signs will be visible to customers. Each sign shall be at least 12
319 inches by 20 inches with boldface type or print that prominently states the following information:

320 (1) The individual's full name and address;

321 (2) The statement "I am not an attorney licensed to practice law and may not give legal advice or
322 accept fees for legal advice"; and

323 (3) The statement "I am not accredited to represent you before the United States Bureau of
324 Citizenship and Immigration Services and the Immigration Board of Appeals."

325 (b) Prior to providing services related to an immigration matter, a notary public shall provide the
326 client with written disclosure in English and the client's primary language. The disclosure shall
327 include the notary public's full name, address and telephone number.

328 Section 20. A notary shall perform any notarial act for any person requesting such an act who
329 tenders the fee set forth in section 41 of chapter 262, unless:

330 (a) the notary public knows or has good reason to believe that the notarial act or the associated
331 transaction is unlawful;

332 (b) the principal has a demeanor that causes the notary public to have a compelling doubt about
333 whether the principal knows the consequences of the transaction or document requiring the
334 notarial act;

335 (c) the act is prohibited by any provision of this chapter or other applicable law; or

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

338 Section 21. (a) A notary public has neither the duty nor the authority to investigate, ascertain, or
339 attest to the lawfulness, propriety, accuracy, or truthfulness of a document or transaction
340 involving a notarial act.

341 (b) Failure of a document to contain the forms of acknowledgment, jurat, signature witnessing,
342 or copy certification set forth in section 16, or otherwise to comply with the requirements set
343 forth in sections 8 through 24 shall not have any effect on the validity of the underlying
344 document, or the recording thereof.

345 (c) Failure of a document to contain the forms of acknowledgment, jurat, signature witnessing, or
346 copy certification set forth in section 16 shall not be the basis of a refusal to accept the document
347 for filing, recordation, registration, or acceptance by a third party.

348 Section 22.

349 A non-attorney notary public who advertises notarial services in a language other than English
350 shall include in the advertisement, notice, letterhead, or sign the following, prominently
351 displayed in the same language the statement: "I am not an attorney and have no authority to
352 give advice on immigration or other legal matters."

353 Section 23. (a) A notary who is not employed by a governmental entity shall keep, maintain,
354 protect, and provide for lawful inspection a chronological official journal of notarial acts that is a
355 permanently bound book with numbered pages, except as otherwise provided in this section.

356 (b) A notary public shall keep no more than one active journal at the same time.

357 (c) For every notarial act except for the issuance of summons or subpoenas, or the administration
358 of an oral oath, the notary public shall record in the journal at the time of the notarization the

359 following:

360 (1) the date and time of the notarial act, proceeding, or transaction;

361 (2) the type of notarial act;

362 (3) the type, title, or a description of the document, transaction, or proceeding. If multiple
363 documents are signed by the same principal in the course of a transaction or during a single date
364 (i.e. real estate closings, mortgage discharges, state laboratory drug analysis certificates, etc.), a
365 single journal entry shall be sufficient;

366 (4) the signature, printed name, and address of each principal and witness, except that if a
367 principal or witness tells the notary that he or she is a battered person, the notary shall make a
368 note in the journal that the person's address shall not to be subject to public inspection.

369 (5) description of the satisfactory evidence of identity of each person including:

370 (A) a notation of the type of identification document, the issuing agency, its serial or
371 identification number, and its date of issuance or expiration, provided that if the identification
372 number on the document is the person's Social Security number, instead of including the number,
373 the notary shall write in the words "Social Security number" or the acronym "SSN"; or

374 (B) a notation if the notary identified the individual on the oath or affirmation of a credible
375 witness or based on the notary's personal knowledge of the individual;

376 (6) the fee, if any, charged for the notarial act; and

377 (7) the address where the notarization was performed.

378 (d) A notary public shall not record a Social Security or credit card number in the journal.

379 (e) A notary public shall record in the journal the circumstances for not completing a notarial act
380 that was requested by the principal.

381 (f) A journal shall not be required for a notary public who is an attorney admitted to practice law

382 in any jurisdiction or who is employed by such attorney. If such attorney or person so employed
383 elects to maintain such journal, the provisions of this section shall not be construed in any way to
384 impair or infringe on the attorney-client privilege or the attorney work product doctrine.

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

389 (h) A notary public shall safeguard the journal and all other notarial records and surrender or
390 destroy them only by rule of law, by court order, or at the direction of the secretary of the
391 commonwealth.

392 (i) When not in use, the journal shall be kept in a secure area under the exclusive control of the
393 notary public, and shall not be used by any other notary nor surrendered to an employer upon
394 termination of employment.

395 Section 24. Fees charged by a notary public for the following services shall not exceed the
396 amounts specified herein until July 1, 2009, after which time maximum fees shall be set by the
397 secretary of the commonwealth:

398 (a) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and
399 the writing of the certificate, the sum of \$10 for each signature taken.

400 (b) For administering an oath or affirmation to one person and executing the jurat, including the
401 seal, the sum of \$10.

402 (c) For all services rendered in connection with the taking of any deposition, the sum of \$20, and
403 in addition thereto, the sum of \$5 for administering the oath to
404 the witness and the sum of \$5 for the certificate to the deposition.

405 (d) For every protest for the nonpayment of a promissory note or for the nonpayment or non-
406 acceptance of a bill of exchange, draft, or check, the sum of \$10.

407 (e) For serving every notice of nonpayment of a promissory note or of nonpayment or non-
408 acceptance of a bill of exchange, order, draft, or check, the sum of \$5.

409 (f) For recording every protest, the sum of \$5.

410 (g) For certifying a copy of a power of attorney under chapter 201B, the sum of \$10.

411 No fee may be charged to notarize signatures on absentee ballot identification envelopes or other
412 voting materials.

413 No fee may be charged to a United States military veteran for notarization of an application or a
414 claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's
415 benefit.

416 Section 25. When a notary commission expires, is resigned, or is revoked, the notary shall as
417 soon as reasonably practicable, destroy or deface all notary seals and stamps so that they may not
418 be used, and retain the notarial journal and records for seven years after the date of expiration,
419 resignation, or revocation.

420 Section 26. Within ten days after the change of a notary public's residence, business or mailing
421 address, or name, the notary shall send to the secretary of the commonwealth a signed notice of
422 the change, giving both the old and new information.

423 Section 27. A notary public's commission may be revoked for official misconduct as defined in
424 section 13, or for other good cause, as determined by the Governor with the consent of the
425 Governor's Council as set forth in Article XXXVII of the Articles of Amendments to the
426 Massachusetts Constitution.

427 SECTION 6. Chapter 262 of the General Laws is hereby amended by striking section 41
428 and inserting in place thereof the following section:
429 Section 41. The maximum fees of notaries public shall be as provided in section 24 of chapter
430 222.

431 SECTION 7. The provisions of this act shall apply to all commissions of notary public or
432 justice of the peace authorized by chapter 222 of the General Laws, including commissions
433 received or renewed before the effective date of this act.