

SENATE No. 757

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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 adoption of the accompanying bill:

An Act regulating notaries public to protect consumers and the validity and effectiveness of recorded instruments.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>

SENATE No. 757

By Ms. Creem, a petition (accompanied by bill, Senate, No. 757) of Cynthia S. Creem, John V. Fernandes and Marcos A. Devers for legislation to regulate notaries public to protect consumers and the validity and effectiveness of recorded instruments. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 681 OF 2013-2014.]

The Commonwealth of Massachusetts

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

An Act regulating notaries public to protect consumers and the validity and effectiveness of recorded instruments.

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. The introductory paragraph of section 30 of chapter 183 of the General
2 Laws, as appearing in the 2012 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 for taking
9 acknowledgments to deeds and other instruments and for certifying the authority of officers

10 taking proofs or acknowledgments may be used but shall not preclude the use of any other forms
11 lawfully used as required or authorized by any general or special law or any regulation or
12 executive order regulating notaries public, including a form that acknowledges the voluntary act
13 of an individual executing a document in a representative capacity but that fails to acknowledge
14 the deed or instrument as the voluntary or free act of the principal or grantor.

15 SECTION 3. Chapter 222 of the General Laws is hereby amended by striking out section
16 1, as so appearing, and inserting in place thereof the following 2 sections:-

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

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

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

30 “Copy certification”, a notarial act in which a notary public is presented with a document
31 which the notary public copies, or supervises the copying of, the document by a photographic or

32 electronic copying process, compares the original document to the copy and determines that the
33 copy is accurate and complete.

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

37 “Journal of notarial acts” or “journal”, a permanently bound book that creates and
38 preserves a chronological record of notarizations performed by a notary public.

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

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

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

48 “Notary public” or “notary”, a person commissioned to perform official acts pursuant to
49 Article IV of the Amendments of the Constitution.

50 “Oath”, a notarial act, or part thereof, that is legally equivalent to an affirmation and in
51 which an individual, at a single time and place, appears in person before a notary, is identified by

52 the notary through satisfactory evidence of identity and makes a vow of truthfulness or fidelity
53 under the penalties of perjury by invoking a deity.

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

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

60 “Principal”, a person whose signature is notarized or a person taking an oath or
61 affirmation before a notary.

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

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

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

78 Section 1A. Justices of the peace and notaries public shall be appointed, and their
79 commissions shall be issued, for the commonwealth. Justices of the peace and notaries public
80 shall have jurisdiction throughout the commonwealth when acting under the sole authority of
81 such a commission and shall perform their duties subject to sections 8 to 26, inclusive. Unless
82 otherwise expressly provided, justices of the peace and notaries public may administer oaths or
83 affirmations in all cases in which an oath or affirmation is required and take acknowledgments of
84 deeds and other instruments.

85 SECTION 4. Said chapter 222 is hereby further amended by striking out sections 8 and
86 8A, as so appearing, and inserting in place thereof the following section:-

87 Section 8. (a) When taking acknowledgment of any instrument or administering an oath
88 for an instrument filed in court, a justice of the peace, notary public or other person duly
89 authorized shall print or type such justice of the peace, notary public or other person’s name
90 directly below such person’s signature and affix thereto the date of the expiration of such
91 person’s commission in the following language: “My commission expires _____.”

92 (b) A notary public shall keep an official notarial seal or stamp that shall be the exclusive
93 property of the notary. A notary shall not permit another to use such notarial seal or stamp. A
94 notary public shall obtain a new seal or stamp upon renewal of the commission, upon receipt of a
95 new commission or if the name of the notary public is changed. The notarial seal or stamp shall

96 include: (i) the notary public's name exactly as indicated on the commission; (ii) the words
97 "notary public" and "Commonwealth of Massachusetts" or "Massachusetts"; (iii) the expiration
98 date of the commission in the following words: "My commission expires ____"; and (iv) a
99 facsimile of the seal of the commonwealth. Whenever a notarial seal that requires ink is
100 employed, black ink shall be used. The requirements of this subsection shall be satisfied by
101 using a stamp and a seal that, together, include all of the information required in this section.
102 Failure to comply with this section shall not affect the validity of any instrument or the record
103 thereof.

104 SECTION 5. Section 11 of said chapter 222, inserted by section 90 of chapter 300 of the
105 acts of 2014, is hereby amended by inserting after the word "dependents" in line 2, the following
106 words:- or members of the Massachusetts National Guard or other reserve component commands
107 when conducting mobilization exercises and soldier readiness processing.

108 SECTION 6. Said chapter 222 is hereby further amended by striking out section 12, as
109 appearing in the 2012 Official Edition, and inserting in place thereof the following 15 sections:-

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

114 Section 13. (a) A person qualified for a notary public commission shall be at least 18
115 years of age, reside or have a regular place of work or business within the commonwealth and be
116 a United States citizen or have permanent residency status in the United States.

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

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

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

122 (iii) the applicant's conviction of a misdemeanor offense that resulted in a sentence to
123 probation or a fine or a conviction for a violation of paragraph (a) of subdivision (1) of section
124 24 of chapter 90 or subsection (a) of section 8 of chapter 90B;

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

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

129 (vi) revocation, suspension, restriction or denial of a notarial commission or
130 professional licensure by the commonwealth or any other jurisdiction; or

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

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

136 Section 15. (a) A notary public may perform the following notarial acts: (i)
137 acknowledgments; (ii) oaths and affirmations; (iii) jurats; (iv) signature witnessings; (v) copy
138 certifications; (vi) issuance of summonses for witnesses as set forth in section 1 of chapter 233;
139 (vii) issuance of subpoenas; and (viii) witnessing the opening of a bank safe, vault or box as set
140 forth in section 32 of chapter 167.

141 (b) A notary shall take the acknowledgment of the signature or mark of persons
142 acknowledging for themselves or in any representative capacity by using substantially the
143 following form:

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

149 (as partner for _____, a partnership)

150 (as _____ for _____, a corporation or other entity)

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

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

153 _____ (official signature and seal of notary)”

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

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

162 _____ (official signature and seal of notary)”

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

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

170 _____ (official signature and seal of notary)”

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

172 “On this ____ day of _____, 20__, I certify that the (preceding) (following)
173 (attached) document is a true, exact, complete and unaltered copy made by me of
174 _____ (description of the document), presented to me by
175 _____.

176 _____ (official signature and seal of notary)”

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

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

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

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

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

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

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

191 (iii) in the notary public's judgment, the principal is acting of the principal's own free
192 will;

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

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

196 (vi) the notary public writes below the signature: “Signature affixed by notary public
197 in the presence of (names and addresses of principal and 2 witnesses)”; and

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

200 (h) This section shall not require a notary public to use the forms in this section if
201 another form of acknowledgment, jurat, signature witnessing or copy certification is required or
202 allowed by any court rule or court form or is required by any general or special law including,
203 but not limited to, section 2-504 of chapter 190B, any federal law or any regulation adopted
204 pursuant to any such law; provided, however, that the forms in this section may be used in lieu of
205 any equivalent form authorized or promulgated by any such law or regulation including, but not
206 limited to, section 42 of chapter 183 and the forms in the appendix to said chapter 183 if any
207 such law or regulation does not expressly prohibit the use of other forms.

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

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

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

216 (i) the principal is not in the notary’s presence at the time of notarization;

217 (ii) the principal is not identified by the notary through satisfactory evidence of
218 identity;

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

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

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

229 (vi) the notary public will receive as a direct result of the notarial act any commission,
230 fee, advantage, right, title, interest, cash, property or other consideration exceeding the maximum
231 fees provided in section 41 of chapter 262 or any other general or special law or executive order,
232 or has any financial interest in the subject matter of the document; provided, however, that this
233 section shall not preclude a notary public who is licensed as an attorney in the commonwealth or
234 who is employed by an attorney so licensed from notarial acts relative to any document in
235 connection with which the attorney receives a legal fee for professional legal services; or

236 (vii) the notary public is a spouse, domestic partner, parent, guardian, child or sibling
237 of the principal, including in-law, step or half relatives, except if a principal witnesses a will or

238 other legal document prepared by the notary public who is an attorney licensed in the
239 commonwealth.

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

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

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

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

254 (f) A notary public shall not provide or send a signed or sealed notarial certificate to
255 another person with the understanding that it will be completed or attached to a document
256 outside of the notary public's presence; provided, however, that in connection with a
257 commercial, nonconsumer transaction, a notary public may deliver a signed, sealed or signed and
258 sealed notarial certificate to an attorney with the understanding that: (i) the attorney shall attach
259 the certificate to a document outside of the notary's presence; (ii) the attorney shall hold such

260 notarial certificate in escrow; and (iii) the attorney informs the notary public that the attorney
261 shall obtain the approval of any principals involved before attaching the certificate to the
262 document.

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

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

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

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

271 Section 17. (a) A notary public shall not advise clients, offer legal advice or represent or
272 advertise the notary public as a legal specialist or consultant unless the notary public is an
273 attorney licensed to practice law in the commonwealth. A notary public shall not state or imply
274 in any communication that the notary public can or will obtain special favors from or has special
275 influence with any government agency. A notary public who is not licensed to practice law in the
276 commonwealth shall not make a literal translation of the notary public’s status as “licensed” or
277 as a “notary public” into a language other than English without regard to the true meaning of the
278 word or phrase in that language or use any other term that implies that the notary public is an
279 attorney so licensed, in any document, including an advertisement, stationery, letterhead,
280 business card or other written or broadcast material describing the notary public or the notary
281 public’s services.

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

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

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

290 (iii) prior to providing services of any kind related to an immigration matter or any
291 matter that could influence or affect a person's immigration status, shall provide a client with a
292 written statement that states "I am not an attorney licensed to practice law. I may not give you
293 legal advice or advise you about immigration policies or procedures. You should seek the advice
294 of a qualified attorney to assist you with any legal questions or with questions about legal status
295 under immigration law."

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

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

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

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

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

310 (e) A notary public who is not an attorney licensed to practice law in the commonwealth
311 shall not conduct a real estate closing and shall not act as a real estate closing agent. Provided
312 however, that a notary public who is employed by an attorney so licensed may notarize a
313 document in conjunction with a real estate closing conducted by the attorney and a notary public
314 who is employed by a lender may notarize a document in conjunction with the closing of such
315 lender's real estate loans.

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

319 Section 18. (a) The attorney general or district attorney may prosecute any person
320 committing a violation of this chapter. A person convicted of committing a violation of this
321 chapter shall be punished for a first offense by a fine of not more than \$1,000 or by
322 imprisonment in a jail or house of correction for not more than 6 months, or by both such fine
323 and imprisonment and, for a second or subsequent offense, by a fine of not more than \$5,000 or

324 by imprisonment in a jail or house of correction for not more than 1 year, or by both such fine
325 and imprisonment. The attorney general or district attorney may file a petition for injunctive
326 relief against any person who violates this chapter. If the attorney general, district attorney or the
327 state secretary has cause to believe that, as a result of official misconduct, a person holding the
328 office of notary public is unsuitable to hold that office, the attorney general, district attorney or
329 state secretary shall provide notice to the governor of such official misconduct. Any conviction
330 based on a violation of this chapter shall be grounds for the revocation of a notary public's
331 appointment. If the court finds that a person so convicted either knew or should have known that
332 the conduct would be in violation of this chapter, the court may require such person to pay a
333 civil penalty of not more than \$5,000 for each such violation and may also require the person to
334 pay the reasonable costs of investigation and litigation of such violation, including reasonable
335 attorneys' fees.

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

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

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

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

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

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

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

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

358 Section 20. (a) A notary public shall not have the power or duty to investigate, ascertain,
359 or attest to the lawfulness, propriety, accuracy or truthfulness of a document or transaction
360 involving a notarial act.

361 (b) Except as may be required by the office of the state secretary for the issuance of an
362 apostille:

363 (i) failure of a document to contain the forms of acknowledgment, jurat, signature
364 witnessing or copy certification set forth in section 15 or otherwise to comply with the

365 requirements set forth in sections 8 to 23, inclusive, shall not have any effect on the validity of
366 the underlying document or the recording of the underlying document;

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

370 (iii) failure of a document executed in a representative capacity to contain an
371 acknowledgment that the instrument was also the voluntary or free act and deed of the principal
372 or grantor shall not effect the validity of the underlying document or the recording of the
373 document.

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

378 Section 22. (a) Except as provided in subsection (f), a notary public shall keep,
379 maintain, protect and provide for lawful inspection a chronological official journal of notarial
380 acts that is a permanently bound book with numbered pages, except as otherwise provided in this
381 section.

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

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

- 386 (i) the date and time of the notarial act, proceeding or transaction;
- 387 (ii) the type of notarial act;
- 388 (iii) the type, title or a description of the document, transaction or proceeding;
- 389 provided, however, that if multiple documents are signed by the same principal in the course of a
- 390 transaction or during a single date, a single journal entry shall be sufficient;
- 391 (iv) the signature, printed name and address of each principal and witness, except that
- 392 if a principal or witness tells the notary that the principal or witness is a battered person, the
- 393 notary shall make a note in the journal that the person's address shall not be subject to public
- 394 inspection; and
- 395 (v) a description of the satisfactory evidence of identity of each person, including:
- 396 (1) a notation of the type of identification document, the issuing agency, its serial or
- 397 identification number and its date of issuance or expiration; provided, however, that if the
- 398 identification number on the document is the person's social security number then, instead of
- 399 including the number, the notary shall write in the words "Social Security number" or the
- 400 acronym "SSN";
- 401 (2) a notation if the notary identified the individual on the oath or affirmation of a
- 402 credible witness or based on the notary's personal knowledge of the individual;
- 403 (3) the fee, if any, charged for the notarial act; and
- 404 (4) the address where the notarization was performed.
- 405 (d) A notary public shall not record a social security or credit card number in the journal.

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

408 (f) A journal shall not be required for a notary public who is an attorney admitted to
409 practice law in any jurisdiction or who is employed by any such attorney. If such attorney or
410 person so employed elects to maintain a journal, the provisions of this section shall not be
411 construed in any way to impair or infringe on the attorney-client privilege or the attorney work
412 product doctrine.

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

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

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

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

425 Section 23. Notwithstanding section 41 of chapter 262, no fee shall be charged by a
426 notary public to notarize a signature on an absentee ballot identification envelope or other voting

427 materials or on any application or claim by a United States military veteran for a pension,
428 allotment, allowance, compensation, insurance or other veterans' benefit.

429 Section 24. When a notary commission expires, is resigned or revoked, the notary shall
430 as soon as reasonably practicable, destroy or deface all notary seals and stamps so that they may
431 not be used and shall retain the notarial journal and records for 7 years after the date of
432 expiration, resignation or revocation.

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

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

439 SECTION 7. This act shall apply to all commissions of notaries public and justices of
440 the peace authorized by chapter 222 of the General Laws, including commissions received or
441 renewed before the effective date of this act.