

ACT NO. 8542

BILL NO. 34-0155

THIRTY-FOURTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2022

An Act amending the Virgin Islands Code, title 3, chapter 29, relating to notaries, notarial officers, and notarial acts by adding subchapter III enacting the “Virgin Islands Uniform Law on Notarial Acts (2022)”; and amending and repealing conflicting laws on notaries public, including title 3 Virgin Islands Code, chapter 29, subchapter I, sections 772, 773, 774, 775, 776 and subchapter II, and repealing title 28 Virgin Islands, chapter 5

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 3 Virgin Islands Code, chapter 29 is amended by inserting a subchapter III to read as follows:

“Subchapter III. Virgin Islands Revised Uniform Law on Notarial Acts (2022).

§ 810. Short title. This subchapter may be cited as the Virgin Islands Revised Uniform Law on Notarial Acts (2022).

§ 811. Definitions. In this subchapter:

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

(2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(4) “In a representative capacity” means acting as:

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

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

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

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

(5) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

(6) "Notarial officer" means a notary public or other individual authorized to perform a notarial act by the Lieutenant Governor of the Virgin Islands, whose position, role and duties are equivalent to those of Secretary of State.

(7) "Notary public" means an individual commissioned to perform a notarial act by the Lieutenant Governor.

(8) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

(9) "Other law" means the law of the Virgin Islands other than this subchapter (3 V.I.C. chapter 29, subchapter III).

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

(11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) "Sign" means, with present intent to authenticate or adopt a record:

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

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

(13) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(14) "Stamping device" means:

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

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

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

§ 812. Applicability. This subchapter applies to a notarial act performed on or after the effective date of this subchapter.

§ 813. Authority to perform notarial acts.

(a) A notarial officer may perform a notarial act authorized by this subchapter or by other law.

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

(c) A notary public may certify a copy of an original document only after the notary public determines that the copy is a full, true, and accurate transcription or reproduction of the original document.

(d) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

§ 814. Requirements for certain notarial acts.

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

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

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

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

(e) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 11A V.I.C. §3-505.

§ 815. Personal appearance required.

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

§ 816. Identification of individual.

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

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

(1) by means of:

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

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

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

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

§ 817. Authority to refuse to perform notarial act.

(a) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

(b) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by other law.

§ 818. Signature of individual unable to sign.

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

§ 819. Notarial act in the Virgin Islands.

(a) A notarial act may be performed in the Virgin Islands by:

- (1) a notary public of the Virgin Islands;
- (2) a judge, clerk, or deputy clerk of a court of the Virgin Islands;
- (3) an individual licensed to practice law in the Virgin Islands; or
- (4) any other individual authorized to perform the specific act by the Virgin Islands.

(b) The signature and title of an individual performing a notarial act in the Virgin Islands are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1), (2), or (3) conclusively establish the authority of the officer to perform the notarial act.

§ 820. Notarial act in another state.

(a) A notarial act performed in another state has the same effect under the law of the Virgin Islands as if performed by a notarial officer of the Virgin Islands, if the act performed in that state is performed by:

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

(b) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1) or (2) conclusively establish the authority of the officer to perform the notarial act.

§ 821. Notarial act under authority of federally recognized Indian tribe.

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of the Virgin Islands, if the act performed in the jurisdiction of the tribe is performed by:

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

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subsection (a)(1) or (2) conclusively establish the authority of the officer to perform the notarial act.

§ 822. Notarial act under federal authority.

(a) A notarial act performed under federal law has the same effect under territorial law as if performed by a notarial officer of the Territory, if the act performed under federal law is performed by:

- (1) a judge, clerk, or deputy clerk of a court;
- (2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (3) an individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
- (4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in subsection (a)(1), (2), or (3) conclusively establish the authority of the officer to perform the notarial act.

§ 823. Foreign notarial act.

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

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

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

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

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

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

§ 824. Notarial act performed for remotely located individual.

(a) In this section:

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

(A) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

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

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

(4) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(5) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection (c).

(b) A remotely located individual may comply with section 815 by using communication technology to appear before a notary public.

(c) A notary public located in the Virgin Islands may use communication technology to perform a notarial act for a remotely located individual if:

(1) the notary public:

(A) has personal knowledge under section 816(a) of the identity of the remotely located individual;

(B) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under section 816(b) or this section; or

(C) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

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

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

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

(A) the record:

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

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

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

(d) A notary public located in the Virgin Islands may use communication technology under subsection (c) to take an acknowledgment of a signature on a tangible record physically present before the notary public if the record is displayed to and identified by the remotely located individual during the audio-visual recording under subsection (c)(3).

(e) The requirement under subsection (c)(2) for the performance of a notarial act with respect to a tangible record not physically present before the notary public is satisfied if:

(1) the remotely located individual:

(A) during the audio-visual recording under subsection (c)(3), signs:

(i) the record; and

(ii) a declaration, in substantially the following form, that is part of or securely attached to the record:

I declare under penalty of perjury that the record of which this declaration is a part or to which it is attached is the same record on which (name of notary public), a notary public, performed a notarial act and before whom I appeared by means of communication technology on (date).

Signature of remotely located individual

Printed name of remotely located individual; and

(B) sends the record and declaration to the notary public not later than three days after the notarial act was performed; and

(2) the notary public:

(A) in the audio-visual recording under subsection (c)(3), records the individual signing the record and declaration; and

(B) after receipt of the record and declaration from the individual, executes a certificate of notarial act under section 825, which must include a statement in substantially the following form:

I (name of notary public) witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date).

(f) A notarial act performed in compliance with subsection (e) complies with section 825(a)(1) and is effective on the date the remotely located individual signed the declaration under subsection (e)(1)(A)(ii).

(g) Subsection (e) does not preclude use of another procedure to satisfy subsection (c)(2) for a notarial act performed with respect to a tangible record.

(h) A notary public located in the Virgin Islands may use communication technology under subsection (c) to administer an oath or affirmation to a remotely located individual if, except as otherwise provided by other territorial law, the notary public:

(1) identifies the individual under subsection (c)(1);

(2) creates or causes the creation under subsection (c)(3) of an audio-visual recording of the individual taking the oath or affirmation; and

(3) retains or causes the retention under subsection (k) of the recording.

(i) If a notarial act is performed under this section, the certificate of notarial act under section 825 and the short-form certificate under section 826 must indicate that the notarial act was performed using communication technology.

(j) A short-form certificate under section 826 for a notarial act subject to this section is sufficient if it:

(1) complies with rules adopted under subsection (m)(1); or

(2) is in the form under section 826 and contains a statement in substantially the following form:

“This notarial act involved the use of communication technology.”

(k) A notary public, a guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public shall retain the audio-visual recording created under subsection (c)(3) or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by regulation adopted under subsection (m)(4), the recording must be retained for at least five years.

(l) Before a notary public performs the notary public’s initial notarial act under this section, the notary public must notify the Office of the Lieutenant Governor that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the Office of the Lieutenant Governor has established standards under subsection (m) and section 836 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

(m) In addition to adopting regulations under section 836, the Office of the Lieutenant Governor may adopt regulations regarding performance of a notarial act under this section. The rules may:

(1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(2) establish standards for communication technology and identity proofing;

(3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing;

(4) establish standards and a period for the retention of an audio-visual recording under subsection (c)(3); and

(5) prescribe methods for a notary public to confirm under subsections (d) and (e) the identity of a tangible record.

(n) Before adopting, amending, or repealing a regulation governing performance of a notarial act with respect to a remotely located individual, the Office of the Lieutenant Governor must consider:

(1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

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

§ 825. Certificate of notarial act.

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

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

(2) be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Office of the Lieutenant Governor;

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

(4) contain the title of office of the notarial officer; and

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

(b) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection (a)(2), (3), and (4), an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection (a)(2), (3), and (4), an official stamp may be attached to or logically associated with the certificate.

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

(1) is in a short form set forth in section 826;

(2) is in a form otherwise permitted by law of the Virgin Islands;

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

(4) sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 814, 815, and 816 or other law.

(d) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 813, 814, and 815.

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

(f) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Office of the Lieutenant Governor has established standards pursuant to section 836 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

§826. Short form certificates.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 825(a) and (b):

(1) For an acknowledgment in an individual capacity:

State of _____

[County] of _____

This record was acknowledged before me on _____ by _____
Date Name(s) of individual(s)

Signature of notarial officer Stamp

[_____]_____
Title of office

[My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of _____

[County] of _____

This record was acknowledged before me on _____ by _____
Date Name(s) of individual(s)
as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was
executed).

Signature of notarial officer Stamp

[_____]

Title of office

[My commission expires: _____]

(3) For a verification on oath or affirmation:

State of _____

[County] of _____

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

Signature of notarial officer Stamp

[_____]

Title of office

[My commission expires: _____]

(4) For witnessing or attesting a signature:

State of _____

[County] of _____

Signed [or attested] before me on _____ by _____

Date _____

Name(s) of individual(s)

Signature of notarial officer Stamp

[_____]

Title of office

[My commission expires: _____]

(5) For certifying a copy of a record:

State of _____

[County] of _____

I certify that this is a true and correct copy of a record in the possession of

Dated _____

Signature of notarial officer Stamp

[_____]

Title of office

[My commission expires: _____]

§827. Official stamp.

The official stamp of a notary public must:

(1) include the notary public's name, jurisdiction, commission expiration date, and other information required by the Office of the Lieutenant Governor; and

(2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

§ 828. Stamping device.

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

(b) (1) Upon the suspension of a notary public's commission, the notary public shall deposit the notary public's stamping device with the Office of the Lieutenant Governor, in the judicial division of the notary public's residence, for the term of the suspension.

(2) Upon the expiration, resignation, or revocation of a notary public's commission, the notary public shall deposit the notary public's stamping device with the Office of the Lieutenant Governor, in the judicial division of the notary public's residence.

The Lieutenant Governor shall make an impression of such seal and keep such impression with the records of the notary public.

(c) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall deposit the notary public's stamping device with the Office of the Lieutenant Governor in the judicial division of the notary public's residence.

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

§ 829. Journal

(a) A notary public, other than an individual licensed to practice law in the Virgin Islands, shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.

(b) A journal may be created on a tangible medium or in an electronic format. A notary public shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Office of the Lieutenant Governor.

(c) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (1) the date and time of the notarial act;
- (2) a description of the record, if any, and type of notarial act;
- (3) the full name and address of each individual for whom the notarial act is performed;
- (4) if identity of the individual is based on personal knowledge, a statement to that effect;
- (5) if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential;
- (6) the fee, if any, charged by the notary public; and
- (7) any other information as the Lieutenant Governor may, by regulation, determine necessary.

(d) (1) Upon the suspension of a notary public's commission, the notary public shall deposit the notary public's journal with the Office of the Lieutenant Governor, in the judicial

division of the notary public's residence, for the term of the suspension.

(2) Upon the expiration, resignation, or revocation of a notary public's commission, the notary public shall deposit the notary public's journal with the Office of the Lieutenant Governor, in the judicial division of the notary public's residence. The Lieutenant Governor shall make an impression of such seal and keep such impression with the records of the notary public.

(e) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the notary public's journal shall deposit the notary public's journal with the Office of the Lieutenant Governor in the judicial division of the notary public's residence.

(f) If a notary public's journal is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify the Office of the Lieutenant Governor promptly on discovering that the journal is lost or stolen.

(g) The Lieutenant Governor may inspect the journal of any notary public at any time.

§ 830. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record.

(a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the Office of the Lieutenant Governor that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the Office of the Lieutenant Governor has established standards for approval of technology pursuant to section 796, the technology must conform to the standards. If the technology conforms to the standards, the Office of the Lieutenant Governor shall approve the use of the technology.

(c) The Recorder of Deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

§ 831. Commission as notary public; qualifications; no immunity or benefit.

(a) An individual qualified under subsection (b) may apply to the Office of the Lieutenant Governor for a commission as a notary public. The applicant shall comply with and provide the information required by regulations established by the Office of the Lieutenant Governor and pay any application fee.

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

- (1) be at least 21 years of age;
- (2) be a graduate of an accredited high school or have passed the high school equivalency test;
- (3) be a citizen or permanent legal resident of the United States;
- (4) be a resident of or have a place of employment or practice in the Virgin Islands;
- (5) be able to read and write English; and
- (6) not be disqualified to receive a commission under section 832.

(c)(1) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the Office of the Lieutenant Governor.

(2) Before a notary public performs any notarial act, the notary public shall obtain and read a copy of all current statutes and any regulations and directives issued by the office of the Lieutenant Governor.

(d) Each notary public shall pay to the Treasury of the Virgin Islands an initial fee of \$100 for the commission and thereafter, on January 1 of each year, an annual fee of \$25. Upon failure to pay the annual fee, the Lieutenant Governor shall, after giving the notary public 30 calendar days' notice of the intention to do so, cancel such appointment.

(e) Each notary public shall execute a bond in favor of the Government of the Virgin Islands, in the sum of \$5,000, from any insurance/bonding company authorized to do business in the Virgin Islands, or submit two resident sureties who are owners, within the Virgin Islands, of real property with the value of \$10,000 over and above encumbrances thereon which must be approved by the Chief Justice of the Supreme Court; provided that the Chief Justice of the Supreme Court shall notify the Office of the Lieutenant Governor and the applicant of the approval of the bond.

(f) Each notary public, upon the approval of notary public's bond and after having taken the official oath, shall transmit such bond and oath, signed by the notary public, to the Office of the Lieutenant Governor, whereupon the Lieutenant Governor may issue a commission.

(g) Each notary public and the sureties on the notary public's bond are liable for all the damages sustained by a party injured by the official misconduct or neglect of that notary public.

(h)(1) A notary public may, at the expiration notary public's term of office, apply for a renewal of the commission by the filing of an application accompanied with a new bond and a renewal fee of \$75, and such application, if all other qualifications are in order and the requirements in paragraph (2) are satisfied, must be given priority over other applications if it is postmarked no later than 60 days after the term ends.

(2) In addition to satisfying the requirements contained in paragraph (1), notaries public seeking renewal of their commission shall also deposit their notary public journal and stamping device with the Office of the Lieutenant Governor in the judicial division of the notary public's residence.

(i) A notary public who fails to timely apply for a renewal must be notified and a determination made regarding the notary public's desire to apply for renewal of the commission.

(j) On compliance with this section, and subject to 3 V.I.C. §771, the Office of the Lieutenant Governor shall issue a commission as a notary public to an applicant for a term of 4 years.

(k) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of the Virgin Islands on public officials or employees.

§ 832. Grounds to deny; refuse to renew; revoke; suspend; or conditioned commission of notary public.

(a) The Office of the Lieutenant Governor may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(1) failure to comply with this subchapter;

(2) a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Office of the Lieutenant Governor;

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

(4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(5) failure by the notary public to discharge any duty required of a notary public, whether by this subchapter, regulations of the Office of the Lieutenant Governor, or any federal or Virgin Islands law;

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

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

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

(b) If the Office of the Lieutenant Governor denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to notice of the decision not later than 10 days after the Lieutenant Governor's determination, and the right to appear to be heard in person or in writing before the decision is final. The decision of the Lieutenant Governor after hearing is final; but the aggrieved person shall have the right to appeal the final decision of the Lieutenant Governor to the Superior Court of the Virgin Islands.

(c) The authority of the Office of the Lieutenant Governor to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

§ 833. Database of notaries public.

The Office of the Lieutenant Governor shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) which indicates whether a notary public has notified the Office of the Lieutenant Governor that the notary public will be performing notarial acts on electronic records.

§ 834. Prohibited acts.

(a) A commission as a notary public does not authorize an individual to:

(1) assist persons in drafting legal records, give legal advice, or otherwise practice law;

(2) act as an immigration consultant or an expert on immigration matters;

(3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or

(4) receive compensation for performing any of the activities listed in this subsection.

(b) A notary public may not engage in false or deceptive advertising.

(c) A notary public, other than an attorney licensed to practice law in the Virgin Islands, may not use the term "notario" or "notario publico".

(d) A notary public, other than an attorney licensed to practice law in the Virgin Islands, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed

to practice law in the Virgin Islands in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the Office of the Lieutenant Governor, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in the Virgin Islands. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities". If the form of advertisement or representation is not broadcast media, print media, or the Internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

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

(f) A notary public who engages in any of the prohibited acts described in this section is subject to action under section 832 or a fine imposed by the Lieutenant Governor, not to exceed \$5,000, or both.

§ 835. Validity of notarial acts.

Except as otherwise provided in section 813(b), the failure of a notarial officer to perform a duty or meet a requirement specified in this subchapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this subchapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on other law of the Virgin Islands or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

§ 836. Regulations.

(a) The Office of the Lieutenant Governor may adopt regulations to implement this subchapter. Regulations adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The regulations may:

- (1) prescribe the manner of performing notarial acts regarding tangible and electronic records;
- (2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

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

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

(6) establish the process for approving and accepting surety bonds and other forms of assurance under section 831(e); and

(7) allow for the increase of the fees set forth in sections 778 and 831, but a regulation that increases the fees by more than 5% per annum is not valid.

(b) In adopting, amending, or repealing regulations about notarial acts with respect to electronic records, the Office of the Lieutenant Governor shall consider, so far as is consistent with this subchapter:

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

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

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

§ 837. Notary public commission in effect.

A commission as a notary public in effect on the effective date of this subchapter continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this subchapter is subject to and shall comply with this subchapter. A notary public, in performing notarial acts after the applicability date of this subchapter, shall comply with this subchapter.

§ 838. Savings clause.

This subchapter does not affect the validity or effect of a notarial act performed before the applicability date of this subchapter.

§ 839. Uniformity of application and construction.

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

§840. Relation to electronic signatures in Global and National Commerce Act.

This subchapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

SECTION 2. Title 3 Virgin Islands Code, chapter 29, subchapter I is amended:

(1) In section 771 by: striking subsection (b) and inserting a new subsection (b) that reads as follows: “(b) The Lieutenant Governor may increase the fees in sections 778 and 831 after a 180-day public notice and comment period.”

(2) By adding section 771a. to read as follows:

“§771a. Special notaries.

(a) (1) In addition to the notaries public appointed under section 771., the Lieutenant Governor may authorize and empower, subject to section 831(b), special notaries, who are employees of the Government of the Virgin Islands to take acknowledgments of deeds and administer oaths and affirmations on matters of official business of the Government of the Virgin Islands.

(2) At least two special notaries public must be appointed under this section for each government agency whether independent or semi-autonomous.

(3) (A) The special notaries must be appointed and commissioned as government notaries ex officio with terms of office at the pleasure of the Lieutenant Governor.

(B) The term of office for special notaries automatically expires every four years to coincide with the swearing in of a Lieutenant Governor.

(b) Special notaries appointed and commissioned under this section may not charge a fee for their notarial services and are not permitted to take acknowledgments of deeds and administer oaths and affirmations except on matters of official business of the Government of the Virgin Islands.

(c) Notwithstanding 3 V.I.C §831, the special notaries appointed and commissioned under this section are not required to pay license fees, or to give a bond.

(d) The special notaries appointed and commissioned under this section are prohibited from simultaneously holding a notary commission under section 771.”

(3) In section 777 by striking subsections (b) and (c) in their entirety and inserting a new subsection (b) to read as follows:

“(b) No notary public may serve as both a subscribing witness and the notary public on a deed or other document of conveyance. A notarial act performed in violation of this subsection is void and must be rejected by the Recorder of Deeds.”

(4) In section 778, subsection (a) by inserting the following language at the end of the subsection:

“; but a notary public may not charge a fee that exceeds \$15 for each document notarized or for each time the notary public’s seal is affixed to a document for notarial acts performed under 3 V.I.C. §824”.

SECTION 3. Title 3 Virgin Islands Code, chapter 29, subchapter 1, sections 772, 773, 774, 775, 776 and subchapter II are repealed.

SECTION 4. Title 28 Virgin Islands Code, chapter 3, section 42 is amended in subsections (a) and (b), by striking “chapter 5 of this title” and inserting “title 3 Virgin Islands Code, chapter 29”.

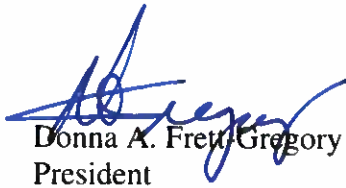
SECTION 5. Title 28 Virgin Islands Code, chapter 5 is repealed.

SECTION 6. This act takes effect 180 days after enactment.

Thus passed by the Legislature of the Virgin Islands on March 24, 2022.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 30th day of March, A.D., 2022.




Donna A. Frett Gregory
President


Genevieve R. Whitaker
Legislative Secretary



Bill No. 34-0155 is hereby approved.

**Witness my hand and the Seal of the Government of
the United States Virgin Islands at Charlotte Amalie,
St. Thomas, This 7th day of April, 2022 A.D.**

A handwritten signature in blue ink, reading "Tregenza A. Roach".

**Tregenza A. Roach
Acting Governor**