

Title 01
EXECUTIVE DEPARTMENT
Subtitle 02 SECRETARY OF STATE

01.02.08 Notary Public: General Regulations

Authority: State Government Article, § 18-103, 18-107, 18-222, Annotated Code of Maryland

Notice of Proposed Action

[22-173-P]

The Secretary of State proposes to amend Regulations .01, .02, .07, and .11 under **COMAR 01.02.08 Notary Public: General Regulations.**

Statement of Purpose

The purpose of this action is to increase the fee notaries public may charge for the performance of notarial acts and remote notarial acts as recently authorized by the enactment of Ch. 715, Acts of 2022 and to propose certain notaries public who perform remote notarial acts on tangible records must file a form with the Secretary of State acknowledging certain obligations with regard to the identification of the remotely located individual who requests a remote notarization for a tangible record. The proposed action is to increase the fee from \$4 to \$6 for the performance of a notarial act and from \$4 to \$25 for the performance of a remote notarial act. The proposed action requires certain notaries public to inform the Secretary of State in writing of their intention to perform remote notarial acts on tangible records. The proposed action also amends existing regulations to address a notary public's obligations as to remote notarial acts on tangible records using communication technology not provided by a remote online notary vendor. Finally, the proposed action is to require notaries public who intend to perform remote notarial acts on tangible records to acknowledge on a form provided by the Secretary of State that the notary public must have personal knowledge under State Government Article, § 18-206(a), Annotated Code of Maryland of the identity of the remotely located individual or have satisfactory evidence of the identity of the remotely located individual by verification on oath or affirmation from a credible witness appearing before and identified by the notary public under State Government Article, § 18-206(b), Annotated Code of Maryland or as a remotely located individual under this section.

Comparison to Federal Standards

Proposed action is not more restrictive or stringent than the federal standard.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action has no economic impact.

II. Types of Economic Impact.	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude

- | | |
|-----------------------------|------|
| A. On issuing agency: | NONE |
| B. On other State agencies: | NONE |
| C. On local governments: | NONE |

	Benefit (+)	
	Cost (-)	Magnitude

- | | |
|---|------|
| D. On regulated industries or trade groups: | + |
| E. On other industries or trade groups: | NONE |
| F. Direct and indirect effects on public: | NONE |

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

Economic Impact on Small Businesses

The proposed action has a positive economic impact on small businesses. Many small businesses provide notary public services. These regulatory changes allow notaries public to increase the fee for their services. Fees for notarial services have not increased since 2014.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michael Schlein, Division Administrator, Charities & Legal Services Division, Office of the Secretary of State, 16 Francis Street, Annapolis, MD 21401, or call 410-260-3863, or email to michael.schlein@maryland.gov, or fax to 410-974-5527. Comments will be accepted through October 9, 2022. A public hearing has not been scheduled.

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.01 Definitions

B(10) "Remote online notary vendor" is a company that provides communication technology *primarily* used to facilitate a notarial act for a remotely located individual *and the technology offered by the vendor includes identity proofing and credential analysis that the notary public may use when required by law to identify a remotely located individual.*

.02 Charges and Fees

- A. A notary public may demand and receive a fee of no more than [\$4] *the following* for the performance of an original notarial act:

- (1) *\$6 for the performance of a notarial act; or*
- (2) *\$25 for the performance of a remote notarial act.*

B. When a notary public is requested to notarize more than one copy of the same record, where the copy or copies have been signed at the same time by the same person or persons, the notary may demand and receive \$[2]6 for notarizing each signature on the original or first copy of the record, and may demand and receive \$[1]3 for each signature on each additional copy of the same record.

C. When a notary public is requested to make reproductions of a notarized record or an entry in the notary's journal by photocopying or other means, the notary may demand and receive not more than \$[1]2 for each copy furnished.

D. A notary public may demand and receive reimbursement at the prevailing rate for mileage established by the Internal Revenue Service for business travel and a fee not to exceed \$5 for travel if required for the performance of a notarial act.

- E. A notary public may charge \$[2]6 for certifying a copy of a record in the notary's journal.

.07 Obligations of Notaries Public Who Perform Remote Notarial Acts.

A. To perform remote notarial acts, a Maryland notary public shall be a currently commissioned Maryland notary public in good standing and shall:

(1) Notify the Office of the Secretary of State in writing of their intent to perform remote notarial acts using a form prescribed by the Office of the Secretary of State for this purpose before they may perform remote notarial acts;

(2) *If the notary public intends to perform remote notarial acts using a remote online notary vendor:*

(a) Identify the authorized remote online notary vendor or vendors they intend to use to perform *such* remote notarial acts;

(b) *Notify the Office of the Secretary of State in writing within 10 business days after making a change to a new remote online notary vendor, if the notary public changes vendors; and*

(c) *If the notary public reasonably believes a remote online notary vendor previously selected does not allow the notary public to meet requirements set forth in State Government Article, Title 18, Subtitle 2, Annotated Code of*

Maryland, and any applicable regulations, the notary public shall promptly notify the Office of the Secretary of State in writing.

(3) If the notary public intends to perform remote notarial acts without identifying remotely located individuals through identity proofing and credential analysis the notary public shall submit a form used by the Office of the Secretary of State for this purpose and acknowledge that the notary public must have personal knowledge under State Government Article, § 18–206(a), Annotated Code of Maryland of the identity of the remotely located individual or have satisfactory evidence of the identity of the remotely located individual by verification on oath or affirmation from a credible witness appearing before and identified by the notary public under State Government Article, § 18–206(b), Annotated Code of Maryland or as a remotely located individual under this section.

[3]4 Use technology that can make an audio-visual record of the entire physical location of the notarial act and all persons physically present for the remote notarial act;

[4]5 Require all persons physically present with the remotely located individual for the remote notarial act to identify themselves and their role in the transaction;

[5]6 Charge no more than the allowed fee for [an original notarial act] *a notarial act under State Government Article, § 18–214, Annotated Code of Maryland* as set forth in Regulation .02F of this chapter; and

[6]7 Create and retain an audio-visual recording of each performance of a remote notarial act for a minimum of 10 years.[]; and]

[7) Notify the Office of the Secretary of State in writing within 10 business days after making a change to a new remote online notary vendor, if the notary public changes vendors.]

[B. If the notary public reasonably believes a remote online notary vendor previously selected does not allow the notary public to meet requirements set forth in State Government Article, Title 18, Subtitle 2, Annotated Code of Maryland, and any applicable regulations, the notary public shall promptly notify the Office of the Secretary of State in writing.]

[C]B. Upon renewal of a notary public's commission, a notary public will be required to submit a new remote notary notification form with the Office of the Secretary of State.

[D]C. A notary public's authority to perform remote notarial acts expires with the expiration of their notary public commission.

[E]D. A notary public authorized to perform remote notarial acts may cancel their authorization by submitting a written notice to the Office of the Secretary of State.

[F]E. It is unlawful for any individual to represent themselves to be authorized to perform remote notarial acts if the individual has not provided the required notification to the Office of the Secretary of State.

[G]F. The Secretary of State may not authorize a notary public to perform remote notarial acts if the person submits a notary application containing a substantial and material misstatement or omission of fact.

.11 Enforcement Actions

C. (5) Performing a remote notarial act before notifying the Secretary of State as required by Regulation .07A(1)-(3) of this chapter and State Government Article, §18-214(e), Annotated Code of Maryland.

JOHN C. WOBENSMITH
Secretary of State