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Introduction

The purpose of this handbook is to provide instructions on how to apply for and renew a Maryland notary public commission and to provide guidance for notaries public on the scope of duties and responsibilities associated with the performance of notarial acts. Notaries public are responsible for reviewing and understanding the contents of this handbook before they take office and undertake actions as a Maryland notary public. The content provided is for informational purposes only, and is not intended to be legal advice. Every effort has been made to ensure the content of this handbook is accurate and up to date. Unless otherwise specified, statutory references appearing in this handbook are to the State Government Article (“State Gov’t Art.”), Title 18, Notaries Public (2014 Replacement Volume, 2019 Supplement), Annotated Code of Maryland. References to the Code of Maryland Regulations (“COMAR”) appearing in this handbook are to proposed regulations published in the Maryland Register on July 31, 2020.

SOURCES OF LEGAL AUTHORITY APPLICABLE TO MARYLAND NOTARIES PUBLIC

- Maryland Constitution, Article 4, § 45
- Maryland Annotated Code, Title 18, State Government Article §§ 18-101 - 18-227 (Amended by Chapter 407, SB 678 (2019 Legislation Session))
- Code of Maryland Regulations, Executive Department, Office of the Secretary of State, 01.02.08.01-.12 (Proposed July 31, 2020)

What is a notary public?

A notary public is an officer of the State. By a 1964 constitutional amendment, a notary, unlike other State officers, may hold another public office. A notary public in the exercise of duties is held to the same high standards of public trust as other appointed and elected State officials.

A notary public is responsible for reading and understanding State Government Article, Title 18, Annotated Code of Maryland, as well as regulations, this handbook, and other public guidance issued by the Secretary of State relating to responsibilities of notaries public and performance of notarial acts.

Notaries public are civil officers and it is their legal responsibility to perform notarial acts in compliance with the notary law and regulations. Because notaries public are civil officers, they should not advertise their notarial services under a trade name. The public is entitled to know the name of the officer to whom they are going for the services provided by a notary public.

A notary public may exercise all functions of the office of notary public in any county or city in the State of Maryland, regardless of the county (or Baltimore City) in which the notary public is commissioned. A Maryland notary public may only perform notarial acts under the authority of their Maryland notary public commission while physically located in Maryland.

Who else may perform notarial acts in the State of Maryland?

Prior to October 1, 2020, only a commissioned notary public was authorized to perform notarial acts. As of October 1, 2020, pursuant to State Government Article, §18-209(a), a notarial act may be performed in the State of Maryland by the following people, who are recognized notarial officers:

- a notary public of the State;
- a judge, clerk, or deputy clerk of a court of the State; or
- a magistrate appointed by a court of the State.

The signature and title of an individual performing a notarial act in the State of Maryland are prima facie evidence that the signature is genuine; and the individual is a commissioned notary public in good standing. The signature and title of a notarial officer listed above conclusively establish the authority of the notarial officer to perform the notarial act. A judge of the court of the State or a magistrate appointed by a court of the state **may not** charge a fee to perform a notarial act. State Government Article § 18-209(b)-(d).

PART I
APPLYING, RENEWING, COMMISSIONING, NAME AND ADDRESS CHANGES

State Gov't Art., §§ 18-101, 18-102, 18-103

COMAR 01.02.08.09

Qualifications:

To be appointed as a notary public, an individual must:

1. be at least 18 years old;
2. be of good moral character and integrity;
3. be a resident of the state; or have a place of employment or practice in the State;
4. if living in the State, must be appointed by the senator representing the district in which you live; and if living outside the State, be a resident of a state that allows Maryland residents working in that state to serve as notaries public in that state; and
5. **Effective October 1, 2021:** all new notary applicants, must complete a Course of Study and pass an examination; all renewal applicants, must complete a Course of Study and pass an examination.

How to Apply to Become a Notary Public:

To become a notary public, you must apply for your commission online at

<https://www.egov.maryland.gov/sos/notary/#/home>.

- Select “Apply for a New Notary Commission.”
- Applicants will be logged out if the page is inactive for 30 minutes during the application process. **ALL information will be lost.**
- To avoid losing information you need to know the requirements before completing the application.
- **You need to read and understand the law and regulations before applying.**

If your State Senator delegates authority to approve notary applications to the Secretary of State, approval of the completed notary application takes approximately 2-5 business days. If approval takes longer it is likely because one of your references has not responded or there is a problem with your application that must be resolved before proceeding.

If your State Senator reviews and makes a determination about notary applications, it can take between 1 week and 6 weeks for notary applications to be approved. The speed and approval of applications is at the discretion of the Senator’s office.

To check the status of your notary application, click here:

<https://www.egov.maryland.gov/sos/notary/#/home>. Once at this page, select “Check Status of a Submitted Application.” Be proactive and check in with our office about the status of your application. Do not assume the determination status of your application.

BE PREPARED TO COMPLETE YOUR APPLICATION, HAVE THE FOLLOWING ITEMS READY BEFORE YOU APPLY:

1. An electronic image of your **government issued photo identification that verifies your home address**. This image must be in PDF, JPEG, JPG, or PNG format. If your current address does not match the address on your government issued photo identification, you must also provide a copy of your MVA Change of Address Card with an address that matches the home address provided on your application. *A passport is not an acceptable ID for a notary application because it does not contain your address.*
2. Contact information for 3 references who can attest to the notary's character. (**family members and employer references will NOT be accepted**) You must provide the name, current mailing address, current phone number, and current email address for each reference. Make sure to provide current information, a reference's failure to respond to a reference check may prevent your approval.
3. The legislative district in Maryland where you reside. To check your legislative district click here: www.mdelect.net. When at this page, enter your address on the left-hand side of the page. After entering your address, your State Senator's name and legislative district number can be found to the left of the page. **Be sure to provide your State Senator's name, not your US Senators' names.**
4. Application Fee: The \$9 application fee is due at the time of application as is a \$2.00 service/convenience fee. Payment may be made by credit card, electronic check, or PayPal.

New Application Process:

1. Complete your new online notary application at <https://www.egov.maryland.gov/sos/notary/#/home>.
2. Upon completion and payment, you will receive an email from the online registration vendor confirming completion of the application and payment.
3. The Secretary of State will receive your notary application the next business day.
4. Your application will be reviewed for completion and to ensure you provided your valid home address.
5. A background check will be conducted to ensure you disclosed any criminal convictions and civil judgments entered against you (civil judgment defined in the definitions Part XIII of the Notary Handbook). **If you did not accurately report information about your criminal record on your application, the application will be denied.** If your State Senator has delegated their authority to approve your application to the Secretary of State, we will email your references for feedback directly. References must respond before we proceed. If your State Senator makes the determination about your application, they will review your application and may contact your references by mail, phone, and/or email.
6. Determination to approve or deny your application is made by your State Senator or the Secretary of State (if your State Senator has delegated authority to the Secretary of State).
7. If denied, you will be notified of your denial.
8. If approved, you will be notified via email of your approval. That email notification will instruct you to appear at the Clerk of the Circuit Court in the county in which you will be commissioned.

- Read the attachment for specific instructions to obtain your commission from the Clerk of the Court.
9. After receiving notification, you **must** appear before the Clerk of the Circuit Court in the county in which you are commissioned to take the oath of office **within 30 days** of the date you were notified. **Failure to appear within 30 days will result in revocation of your commission.**
 10. **Clerk of the Court's Fee: Be prepared to pay the Clerk of the Court \$10.00** for the commission and \$1.00 registration fee. This is separate from your notary application fee paid to the Secretary of State.
 11. **If you do not appear before the Clerk of the Circuit Court and take your oath of office within the 30 days, your commission will be revoked. If your commission is revoked because you did not appear within 30 days, you must reapply by submitting a new application, and pay another application fee.**
 12. The Clerk of the Circuit Court will provide your notary commission after you are sworn in. After you are sworn in and you have received your commission, you are an official Notary Public for the State of Maryland.

How to Renew Your Notary Commission

At the completion of the term of each notary commission, you may renew your commission. You can renew your notary commission 60 days before your current notary commission expires (e.g. if your commission expires on May 31st, you may renew your commission on April 1st). You have until 30 days after your commission expired to renew your notary commission. (e.g., if your commission expires on May 31st, you have until June 30th to renew your commission.) If you do not renew your commission within the prescribed timeframe, you will not be able to renew; you will be required to complete a new notary application.

For every commission, including a renewed notary commission, you must appear before the Clerk of the Circuit Court to take the oath of office and receive the commission. It does not matter how many times you have been commissioned as a notary, your commission is not valid until and unless you appear before the Clerk of the Circuit Court.

To renew your notary public commission, you must submit a renewal application online at <https://www.egov.maryland.gov/sos/notary/#/home>. Select “Renew Your Notary Commission.”

- Applicants will be logged out if the page is inactive for 30 minutes during the application process. **ALL information will be lost.**
- To avoid losing information you need to know the requirements before completing the application.
- **You need to read and understand the law and regulations before applying.**

It ordinarily takes approximately 1-3 business days for a completed renewal application to be approved. If approval takes longer it is likely because there is a problem with your application that must be resolved before proceeding.

Be proactive and check in with our office about the status of your application. Do not assume the determination status of your application.

BE PREPARED TO COMPLETE YOUR RENEWAL APPLICATION, HAVE THE FOLLOWING ITEMS READY BEFORE YOU APPLY:

1. An electronic image of your **government issued photo identification that verifies your home address**. This image must be in PDF, JPEG, JPG, or PNG format. If your current address does not match the address on your government issued photo identification, you must also provide a copy of your MVA Change of Address Card with an address that matches the home address provided on your application. *A passport is not an acceptable ID for a notary application because it does not contain your address.*
2. The legislative district in Maryland where you reside. To check your legislative district click here: www.mdelect.net. When at this page, enter your address on the left-hand side of the page. After entering your address, your State Senator's name and legislative district number can be found to the left of the page. **Be sure to provide your State Senator's name, not your US Senators' names.**
3. Application Fee: The \$9 application fee is due at the time of application as is a \$2.00 service/convenience fee. Payment may be made by credit card, electronic check, or PayPal.

Renewal Application Process:

1. Complete your online renewal application <https://www.egov.maryland.gov/sos/notary/#/home>.
2. Upon completion and payment, you will receive an email from the online registration vendor confirming completion of the application and payment.
3. The Secretary of State will receive your renewal application the next business day.
4. Your renewal application will be reviewed for completion and to ensure you provided your valid home address.
5. We will conduct a background check to ensure you have disclosed any criminal convictions and civil judgments entered against you (civil judgment defined in the definitions Part XIII of the Notary Handbook). **If you did not accurately report information about your criminal record on your application, the application will be denied.** The determination to approve or deny your application is made by the Secretary of State.
6. If denied, you will be notified of your denial.
7. If approved, you will be notified via email of the approval of your renewal application. That email notification will instruct you to appear at the Clerk of the Circuit Court in the county in which you will be commissioned for your next commission. Read the attachment for specific instructions to obtain your commission from the Clerk of the Court.
8. After receiving notification, you **must** appear before the Clerk of the Circuit Court in the county in which you are commissioned to take the oath of office **within 30 days** of the date you were notified. **Failure to appear within 30 days will result in revocation of your commission.**
9. **Clerk of the Court's Fee: Be prepared to pay the Clerk of the Court \$10.00** for the commission

and \$1.00 registration fee. This is separate from your notary application fee paid to the Secretary of State. If you do not appear before the Clerk of the Circuit Court and take your oath of office within the 30 days, your commission will be revoked. If your commission is revoked because you did not appear within 30 days, **you must reapply by submitting a new application, and pay another application fee.**

The Clerk of the Circuit Court will provide your notary commission to you after you are sworn in. After you are sworn in and you have received your commission, you have successfully renewed your notary commission and are an official Notary Public for the State of Maryland.

How to Change Your Name:

Complete your change of name at: <https://www.egov.maryland.gov/sos/notary/#/home>.

Whenever the name of a notary is changed (for example, by marriage), within 30 days of the change, the notary shall notify the Secretary of State **and** the Clerk of the Circuit Court of the County, or Baltimore City, depending upon where the notary received the commission, through the *Name and/or Address Change* form available from the Secretary of State.

The notary may continue to perform official acts under the name in which the notary was commissioned until the expiration of the term. However, it is preferable to write on each document's certificate *New Name*, commissioned as *Prior Name*. (e.g. Sally Jones, commissioned as Sally Johnson)

A notary who wishes to obtain a commission in a new name may do so through the *Name and/or Address Change* form available from the Secretary of State, which is to be completed and returned, along with the old commission. **The notary must appear before the Clerk to be sworn in under their new name and must pay the Clerk of the Court's fee, as described previously when renewing a commission.** When the notary is sworn in for the new commission because of a change of name, the previous commission held in the old name is no longer valid.

How to Change Your Address:

Complete your change of address at: <https://www.egov.maryland.gov/sos/notary/#/home>.

Whenever the address of a notary is changed, within 30 days of the change, the notary shall notify the Secretary of State **and** the Clerk of the Circuit Court of the County, or Baltimore City, depending upon where the notary received the commission, through the *Name and/or Address Change* form available from the Secretary of State.

The notary may continue to perform official acts until the expiration of the term. A new stamping device is not required if the notary has only changed their address even if the new address is not in the county or City of Baltimore where the notary received the commission and which appears on the notary's stamping device.

A notary does not need to appear before the Clerk of the Court to take an oath of office if the notary has only changed their address.

Requirement to Maintain Current Contact Information with the Secretary of State:

Notaries public are required to notify the Office of the Secretary of State within 30 days if, at any time during their commission, a notary public changes their:

- Name;
- Home address;
- Home phone number;
- Cell phone number, if one was provided at the time of application;
- Electronic mail (email) address;
- Business phone number; or
- County of residence.

All of this information may be updated at: <https://www.egov.maryland.gov/sos/notary/#/home>.

Other questions related to notary applications and commissioning:

May the Governor refuse to issue a notary public commission to a person approved by a Senator?

The Governor, by law, appoints only *in his discretion and judgment*, and therefore may decide not to make an appointment. However, all Governors have relied on the recommendations submitted by the Senators.

How is an applicant notified of an appointment?

After appointment by the Governor, a commission (the written statement of the appointment) is prepared. The applicant will be notified by email if the applicant has been approved. The email will have instructions on how to appear before the Clerk of the Circuit Court to be sworn in and receive your commission. **A**

NOTARY MUST TAKE THE OATH EACH TIME A COMMISSION IS ISSUED.

How do I appear before the Clerk of the Circuit Court?

Instructions about how to appear before the Clerk of the Court to be sworn in and receive your Notary Public commission will be provided when you are notified of your appointment. The instructions will include contact information for the Clerk of the Circuit Court in the county in which you will be commissioned. If you live in Maryland, you will be commissioned by the Clerk of the Circuit Court in the county in which you reside. If you live out of state, you will likely be commissioned by the Clerk of the Circuit Court in the county in which you work.

Is there a fee to be sworn in at the Clerk of the Circuit Court?

Yes, as previously stated, be prepared to pay the Clerk of the Court a fee of \$10.00 for the commission and \$1.00 registration fee. **This fee is different from the application fee paid to the Secretary of State.**

How long do I have to appear at the Clerk of the Circuit Court after my notary commission was issued?

A notary must be sworn in within 30 days of the issue date of the commission. The issue date is the date the approval email is sent.

How long is a notary public commission valid?

A notary's commission is valid for four (4) years from the date the commission is issued, which is the date the notary is sworn in by the Clerk of the Circuit Court. The expiration date is shown on each commission.

PART II**ENFORCEMENT***State Gov't Art., §§ 18-104, 18-221**COMAR 01.02.08.11***May a notary public be removed from office? When may the Secretary of State take action against a notary public?**

On behalf of the Governor, the Office of the Secretary of State may deny, refuse to renew, revoke, suspend, or impose conditions 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, for the following reasons:

- a failure to comply with this title or regulations adopted under this title;
- a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission;
- conviction of a felony or crime involving fraud, dishonesty, or deceit;
- a finding against or an admission of liability in a legal proceeding or disciplinary action based on fraud, dishonesty, or deceit;
- failure to discharge any duty required of a notary public, whether imposed by any federal or state law or regulations adopted by the Secretary of State;
- use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have; and
- denial, refusal to renew, revocation, suspension, or conditions of a notary public commission by another state.

Hearings:

After notice to the notary and the opportunity for a hearing before the Secretary of State or the Secretary of State's designee, the Secretary of State shall determine the action required in the case.

The notice and hearing opportunity is deemed satisfied if a letter informing the applicant or notary of the impending action and hearing opportunity is mailed to the applicant or notary by first-class mail at the last address the applicant or notary has given to the Secretary of State

An action taken against a notary public does not preclude a person from seeking and obtaining any other criminal or civil remedy.

What if a notary public is convicted of a felony or other crime?

A notary public convicted of a felony or crime involving fraud, dishonesty, or deceit shall report the conviction to the Office of the Secretary of State within 10 days of the conviction or within 10 days after they are released from incarceration, whichever is later. Failure to properly report under this paragraph may result in an enforcement action against the notary public under this regulation.

What if a document is incorrectly notarized?

Except as provided in §18–203(b), the failure of a notarial officer to perform a duty or meet a requirement specified in the law does not invalidate a notarial act performed by the notarial officer.

The validity of a notarial act under the law does not prevent an aggrieved person from seeking:

- to invalidate the record or transaction that is the subject of the notarial act under another law; or
- other remedies allowed under federal or state law.

PART III**POWERS, AUTHORITY AND JURISDICTION, CONFLICT OF INTEREST AND OTHER RESTRICTIONS***State Gov't Art., §§ 18-203, 18-204, 18-224***General Powers of a Notary Public**

A notarial officer has the following general powers:

- Take an acknowledgment of a record;
- Take a verification on oath or affirmation of a statement
- Witness or attest to a signature
- Certify or attest a copy of a record or an item that was copied;
- Certify that a tangible copy of an electronic record is an accurate copy of the electronic record; and
- Make or note a protest of a negotiable instrument in accordance with § 3–505(b) of the Commercial Law Article.

Authority and Jurisdiction of the Notary

- A notary public may perform notarial acts in any county of the State or in the City of Baltimore, regardless of the county (or City of Baltimore) where the notary public is commissioned. *For example, a notary public commissioned in Somerset County may also act as a notary public in Anne Arundel County, or any other county (or City of Baltimore) in Maryland.*
- A Maryland notary public is **not authorized** to act as a notary public in another state or the District of Columbia. *The notary must be physically present in the State of Maryland to act as a notary public.*
- **A notary public of another state may not act as a notary public in Maryland, unless the person also holds a commission issued by Maryland. In this instance, the notary public must be acting under the authority of their Maryland notary public commission.**
- A notary public may notarize a document from, or for, another state as long as the document is notarized while the notary public is physically present in Maryland.

Conflict of Interest Restrictions:

A notarial officer may perform a notarial act authorized by the laws of the State.

A notarial officer may not perform a notarial act with respect to a record to which the notarial officer or the spouse of the notarial officer is a party, or in which either the notarial officer or the spouse of the notarial officer has a direct beneficial interest. **This action is in violation of State Government Article, §18–203(b), Maryland Annotated Code. A notarial act performed in violation of this provision is voidable.**

While the law only prevents a notarial officer from performing a notarial act in which the notarial officer or the

spouse of the notarial officer has a direct beneficial interest, we recommend a notarial officer to refrain from performing a notarial act:

- For all members of their immediate family even if not under a legal duty to refrain for that member of your family; and
- With regard to any matter in which the notary is personally involved, even if indirectly, or where there is no beneficial interest.

A notary public may perform a notarial act for any person (other than the notary or their spouse) to any instrument which involves the corporation of which the notary public is an employee and to which the notary public is not a party.

Other Restrictions:

A commission as notary public **does not authorize** an individual to:

- Assist a person in drafting legal records, give legal advice, or otherwise practice law;
- Act as an immigration consultant or an expert on immigration matters;
- Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or
- Receive compensation for performing any of the above acts set forth in State Government Article, § 18-224, Maryland Annotated Code.

Section 18-224 further provides that a notary public may not:

- Engage in false or deceptive advertising.
- Use the term “notario” or “notario publico” unless the notary public is an attorney licensed to practice law in the state.
- Advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law unless the notary public is an attorney licensed to practice law in the state.

If a notary public, who is not an attorney licensed to practice law in the state, 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 set forth in State Government Article, § 18-224(d)(2):

“I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.”

This required statement shall be included prominently and, in each language, used in the advertisement or representation. If the form of advertisement or representation is not broadcast media, print media, or the internet and does not allow inclusion of the required statement because of size, the statement shall be prominently displayed or provided at the place of performance of the notarial act before the notarial act is performed.

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.

May a notary perform official duties at real estate closings or settlements?

A notary may not render services which may result in the issuance of a title insurance contract; such services may only be performed by a licensed title insurance producer, as defined in Insurance Article, §10-101(i), Annotated Code of Maryland. According to the Maryland Insurance Administration, “a notary who merely attends a real estate closing or settlement that is conducted by another person or entity and who merely witnesses signatures in consideration of the statutory fees that a notary is permitted to charge does not, in the view of the MIA, fall within the scope of Insurance Article, §10-101(i) and is not required to secure a title producer’s license in order to perform such services. However, if the notary is the only individual other than the buyer who is present at the closing and the notary is presenting documents for signature which may result in the issuance of title insurance, collecting escrow funds, or otherwise performing any duty other than the witnessing of a signature, the notary must also be licensed as a title insurance producer. Bulletin from MIA to Title Insurers, Property & Casualty 03-18, December 1, 2003.

PART IV**IDENTIFICATION OF PERSON APPEARING BEFORE THE NOTARY AND COMPETENCE**

State Gov't Art., §§ 18-205, 18-206, 18-207, 18-208

A person that requests a notary public to perform a notarial act must always personally appear before the notary public at the time the notarial act is performed. Ordinarily, this means that the person requesting the notarial act is in the physical presence of the notary public.

Effective October 1, 2020, the law authorizes a notary public to perform a notarial act for a remotely located individual using certain types of communication technology. This is commonly referred to as a remote notarial act, remote online notarial act, remote notarization, or remote online notarization. There are many requirements for legally performing a remote notarial act that are explained later in this Handbook.

Identification of Person Requesting Notarial Act:

A notarial officer must always identify a person requesting a notarial act. The notary must identify the person requesting the notarial act every time a notarial act is performed. The notary must obtain identification prior to performing a notarial act. A notarial officer may use 1 of 3 methods to satisfactorily identify the person requesting the notarial act:

1. **Personal Knowledge.** A notarial officer has personal knowledge of the identity of an individual personally appearing before the notarial officer, if the individual is personally known to the notarial officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.
2. **Government Issued Identification.** Satisfactory evidence of the identity of the individual by means of:
 - a. A passport, driver's license, consular identification, or government-issued nondriver identification card, or
 - b. Another form of government identification issued to the individual that:
 - i. Contains the signature and photograph of the individual; and
 - ii. Is satisfactory to the notarial officer.
3. **Credible Witness.** Satisfactory evidence of the identity of the individual by means of a verification on oath or affirmation of a credible witness who is:
 - a. Personally appearing before the notarial officer; and
 - b. Known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, consular identification, or government-issued nondriver identification card.

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

Identifying a Minor

In some cases, identifying a minor can be as easy as looking at a current passport, or, if they are 16 or over, a valid driver's license. However, many minors will not have an ID. Notaries may use a credible witness as described above in lieu of an ID.

Competency and Awareness

Unless otherwise prohibited by law, **a notarial officer may refuse to perform a notarial act** if the officer is not satisfied that the individual executing the record is competent or has the capacity to execute the record.

The notarial officer should interact *directly* with the person requesting the notarial act. The notarial act should not be performed if the signer does not appear competent or aware of the document(s) being notarized.

The role of the notary is not to quiz the signer. The notary's role is to observe and assess if, in the notary's judgment, the signer is impaired and lacks capacity to execute the document.

Duress

Unless otherwise prohibited by law, a notarial officer may refuse to perform a notarial act if the notary officer is not satisfied that the individual's signature is knowingly and voluntarily made.

If the notary determines that a signer is under duress, the notary should refuse to notarize.

What if someone is physically unable to sign a record?

If the signer is not impaired and not under duress, but is physically unable to sign a record, the individual may appear before the notarial officer and direct another individual—other than the notarial officer—who is concurrently appearing with the individual before the notarial officer to sign the individual's name on the record.

If another individual is directed to sign an individual's name, the notarial officer shall insert on the record the following words or words of similar import: "signature affixed by (name of other individual) at the direction of (name of individual directing the other individual to sign)".

An individual does not have to designate someone else to sign if they are physically unable to sign a record. An individual signing the record may also sign their signature by making a mark. If someone signs a record by making a mark, the notary should make note of this occurrence in the entry in their journal for this notarial act.

PART V**NOTARY PUBLIC'S OFFICIAL STAMP***State Gov't Art., §§ 18-217, 18-218*

Effective October 1, 2020, the seal of the notary public is referred to as a “stamping device.” The notary public’s official stamp can be an ink stamp or embosser or it can also be an electronic device or process. The notary public’s official stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. A notary public’s stamping device is a public seal for purposes of § 8–607 of the Criminal Law Article.

Each notary public is responsible for the security of their stamping device. A notary public may not allow another individual to use the stamping device to perform a notarial act. The notary public’s official stamp is the property and responsibility of the notary alone. *Even if an employer purchased the stamp for a notary public, the stamp is the property and responsibility of the notary public, it is to remain in the custody and control of the notary public named on the stamping device alone. If the notary public leaves their employer, the notary public is strongly encouraged to take the notary stamp with them.*

The official stamp of a notary public shall include:

- The **name of the notary public as it appears** on the notary's commission;
- The words “**Notary Public**”; and
- **County (or City of Baltimore)** in which the notary was commissioned. For notaries public who reside in Maryland, this will more than likely be the county (or Baltimore City) of residence. For notaries public who reside out of state, this will always be the county (or Baltimore) where the notary public was commissioned.
- **Expiration date of the notary’s commission, unless the expiration date is part of the notarial certificate or affixed to or logically associated with the record being notarized; notarial certificates will be discussed in a later section of the Handbook.**

The notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable upon resignation from, or the revocation or expiration of, the notary public’s commission, or on the expiration of the date set forth in the stamping device, if any.

If a notary public’s stamping device is lost or stolen, the notary public or the notary public’s personal representative or guardian promptly shall notify the Secretary of State on discovering that the device is lost or stolen. On the death or adjudication of incompetency of a notary public, the notary public’s personal representative or guardian or any other person knowingly in possession of the stamping device shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

PART VI**NOTARY RECORDKEEPING***State Gov't Art., §§ 18-219, 18-223**COMAR 01.02.08.08*

A notary public must maintain a journal, previously known as a fair register, of **all notarial acts**. Each notary public shall maintain a journal which chronicles each the notary public's notarial acts. The notary must enter each notarization into their journal, even if a notary public notarizes for the same people on a regular basis. The notary public shall retain the journal for 10 years after the performance of the last notarial act.

A journal may be created on a tangible medium (on paper, in book form) or in an electronic format. A notary public shall maintain only one journal at a time to chronicle all notarial acts performed regarding tangible records, and one or more journals to chronicle all notarial acts performed regarding electronic records. If the journal is maintained on a tangible medium, the journal must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, the journal must be in a permanent, tamper-evident electronic format that complies with the law and any regulations adopted by the Secretary of State.

Each entry in a journal shall be made contemporaneously with performance of the notarial act. Each journal entry shall contain the following information:

- the date and time the notarial act was performed;
- a description of the record, if any, and type of notarial act;
- the full name and address of each individual for whom the notarial act is performed;
- if the identity of the individual is based on personal knowledge, a statement to that effect;
- if the 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, and the identification number associated with the identification credential; (e.g. driver's license number, etc.)
- the fee, if any, charged by the notary public, if no fee is charged, the record should indicate no fee; and
- an indication of whether an individual making a statement or executing a signature which is the subject of the notarial act appeared in the notary public's physical presence or remotely by means of communication technology.

If a notary public's journal is lost or stolen, the notary public shall promptly notify the Secretary of State upon discovering that the journal is lost or stolen.

For a notary public maintaining an electronic journal, the journal must be kept in a device that protects the journal or audio-visual recordings against unauthorized access by password or cryptographic process. A notary public may, by written contract, engage a third party to act as a repository to provide the storage required.

If a notary public engages with a third party to be a repository, the contract shall:

- enable the notary public to comply with the retention requirements of the law even if the contract is terminated; or
- provide that the information will be transferred to the notary public if the contract is terminated.

A third party under contract with a notary public shall be deemed a repository approved by the Secretary of State.

On the resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall:

- retain the notary public's journal as explained above; and
- inform the Secretary of State where the journal is located.

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 journal shall transmit it to a repository approved by the Secretary of State.

PART VII**NOTARIAL CERTIFICATES***State Gov't Art., §§ 18-215, 18-216*

Prior to October 1, 2020, not all notarial acts required a certificate. Effective October 1, 2020, the law requires that a certificate is completed for each and every notarial act. If a certificate is not included on the record being notarized, a notarial officer will be required to affix a certificate in a manner addressed below. A different type of notarial certificate is required for each type of notarial act. Examples of those certificates are included in Part VIII of the Handbook, where each type of notarial act is addressed. You will need to know what is being asked of you by the person requesting the notarial act in order to affix the correct notarial certificate.

Each notarial act shall be evidenced by a certificate. The certificate shall:

- be executed contemporaneously with the performance of the notarial act;
- be signed and dated by the notarial officer and, if the notarial officer is a notary public, signed in the same manner as on file with the Clerk of the Circuit Court for the county in which the notary public was commissioned;
- identify the jurisdiction in which the notarial act is performed;
- contain the title of office of the notarial officer; and
- if the notarial officer is a notary public, indicate the date of expiration, if any, of the notarial officer's commission.

By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with §§18–203, 18–204, and 18–205, and, if applicable, § 18–214. A notarial officer **may not** affix the notarial officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

If a notarial act regarding a tangible record is performed by a notary public, the notary public shall affix an official stamp to or emboss an official stamp on the certificate. The certificate shall be part of, or securely attached to, the record.

If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public, the notarial officer may affix an official stamp to or emboss an official stamp on the certificate. The certificate shall be part of, or securely attached to, the record.

If a notarial act regarding an electronic record is performed by a notarial officer, the notarial officer may attach an official stamp to or logically associate an official stamp with the certificate. The certificate shall be affixed to, or logically associated with, the electronic record.

A certificate of a notarial act is sufficient if it meets the requirements of §18–215 and:

- (1) is in a short form provided in §18–216;
- (2) is in a form otherwise allowed by the laws of this State;
- (3) is in a form allowed by the laws 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 laws of the State.

PART VIII**HOW TO PERFORM THE DIFFERENT NOTARIAL ACTS***State Gov't Art., §§ 18-216, 18-214, 18-106*

A notarial officer may perform the following notarial acts:

- Take an acknowledgment of a record;
- Take a verification on oath or affirmation of a statement
- Witness or attest to a signature
- Certify or attest a copy of a record or an item that was copied;
- Certify that a tangible copy of an electronic record is an accurate copy of the electronic record; and
- Make or note a protest of a negotiable instrument in accordance with Commercial Law Article, § 3–505(b), Maryland Annotated Code.

TAKE AN ACKNOWLEDGMENT OF A RECORD:

“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, the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

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 notarial officer and making the acknowledgment has the identity claimed; and
- the signature on the record is the signature of the individual.

If the person requesting the notarial act has signed the acknowledgment prior to appearing before the notarial officer, the notarial officer no longer needs to make the person sign the acknowledgment again. The notarial officer, by receiving the acknowledgment from the individual after having satisfactorily identified that individual, is verifying that the signature on the record is the signature of the individual.

How does a notary public take an acknowledgment?

The following is a step-by-step process for completing an acknowledgment:

1. The person making the acknowledgment must personally appear before the notarial officer, either in-person or by using communication technology.
2. The notarial officer must properly identify the person requesting the notarial act.
3. If not already signed by the person executing the record, observe the signing of the document.
4. Take the spoken statement of the individual executing the record. The person making the



acknowledgment must state (i.e. *acknowledge*) to the notary public that the document constitutes his or her act and deed.

5. Complete and sign the notarial certificate on the record (including the expiration date of the notary’s commission if it is not on the notary’s stamping device).
6. Apply the notary’s stamping device to the notarial certificate on, affixed, or logically associated with the record.
7. Record the notarial act in the notary’s journal.

Short form certificate that may be used for an acknowledgment in an individual capacity:

State of Maryland

County of (county in Maryland, or City of Baltimore, in which the notarial act occurs)

This record was acknowledged before me on the _____ day of (month), 20____ by (name of the person making the acknowledgment).

[affix notary stamp]

Signature of notarial officer

Title of the notarial officer *(Notary Public, Clerk of the Court, etc.)*

My commission expires: _____

Short form certificate that may be used for an acknowledgment in a representative capacity:

State of Maryland

County of (county in Maryland, or City of Baltimore, in which the notarial act occurs)

This record was acknowledged before me on the _____ day of (month), 20____ by (name of the person making the acknowledgment) as (type of authority, such as an officer or trustee) of (name of party, such as a company or other individual, on behalf of whom record was executed).

[affix notary stamp]

Signature of notarial officer

Title of the notarial officer *(Notary Public, Clerk of the Court, etc.)*

My commission expires: _____

TAKE A VERIFICATION ON OATH OR AFFIRMATION OF A STATEMENT:

“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 or that a remotely located individual has the identity claimed.

A notarial officer who takes a verification on oath or affirmation of a statement shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that:

- the individual appearing before the notarial officer and making the verification has the identity claimed; and
- the signature on the statement verified is the signature of the individual.

If the person requesting the notarial act has signed the verification on oath or affirmation prior to appearing before the notarial officer, the notarial officer no longer needs to make the person sign the verification on oath or affirmation again. The notarial officer, by receiving the verification on oath or affirmation from the individual after having satisfactorily identified that individual, is verifying that the signature on the record is the signature of the individual.

How does a notary public take a verification on oath or affirmation?

The following is a step-by-step process for completing a verification on oath or affirmation:

1. The person making the verification on oath or affirmation must personally appear before the notarial officer, either in-person or by using communication technology.
2. The notarial officer must properly identify the person requesting the notarial act.
3. If not already signed by the person executing the record, observe the signing of the document.
4. Take the individual's spoken statement that the individual swears or affirms, that the contents of the document are true, either on the individual's personal knowledge, or to the best of the individual's knowledge, information, and belief.
5. Complete and sign the notarial certificate on the record (including the expiration date of the notary's commission if it is not on the notary's stamping device).
6. Apply the notary's stamping device to the notarial certificate on, affixed, or logically associated with the record.
7. Record the notarial act in the notary's journal.

Short form certificate that may be used for verification of an oath or affirmation:

State of Maryland

County of (county in Maryland, or City of Baltimore, in which the notarial act occurs)Signed and sworn to (or affirmed) before me on the _____ day of (month), 20____ by (name of the person making verification on oath or affirmation).

[affix notary stamp]

Signature of notarial officerTitle of the notarial officer *(Notary Public, Clerk of the Court, etc.)*

My commission expires: _____

WITNESSING OR ATTESTING A SIGNATURE

“Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

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 notarial officer and signing the record has the identity claimed.

This is the notarial act that a notarial officer will perform in a situation where there is no notarial wording already present on the record and the person requesting the notarial act simply wants their signature to be notarized. This notarial act replaces what was previously known as “notary as official witness” under the old law and regulations.

Unless a person requesting a notarial act requests a different notarial act, witnessing or attesting to a signature is most likely the correct notarial act to perform, which requires a certificate to attach to the record to indicate a notarial act has been performed.

How does a notary public witness or attest a signature?

The following is a step-by-step process for completing a witnessing or attesting a signature:

1. The person signing the document must personally appear before the notarial officer, either in-person or by using communication technology.
2. The notarial officer must properly identify the person requesting the notarial act.
3. If not already signed by the person executing the record, observe the signing of the document. If the document is already signed by the person executing the record, have the individual attest to the fact

that the individual did sign the record.

4. Complete and sign the notarial certificate on the record (including the expiration date of the notary's commission if it is not on the notary's stamping device). If no notarial certificate is present on the record, affix the correct notarial certificate found below.
5. Apply the notary's stamping device to the notarial certificate on, affixed, or logically associated with the record.
6. Record the notarial act in the notary's journal.

Short form certificate that may be used for witnessing or attesting a signature:

State of Maryland

County of (county in Maryland, or City of Baltimore, in which the notarial act occurs)

Signed (or attested) before me on the _____ day of (month), 20____ by (name of the person who is signing or attesting to their signature).

[affix notary stamp]

Signature of notarial officer

Title of the notarial officer *(Notary Public, Clerk of the Court, etc.)*

My commission expires: _____

CERTIFY OR ATTEST A COPY OF A RECORD

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.

How does a notary public certify a copy of a record?

The following is a step-by-step process for certifying a copy of a record:

1. The person requesting the notarial act must personally appear before the notarial officer, either in-person or by using communication technology.
2. The notarial officer must properly identify the person requesting the notarial act.
3. If the copy of the record was not already created by the person requesting the notarial act, observe the copying of the record. If the record was already copied by the person requesting the notarial act, examine the original and the copy to ensure the copy is a full, true, and accurate reproduction of the original record.
4. Complete and sign the notarial certificate on the record (including the expiration date of the notary's

commission if it is not on the notary's stamping device). If no notarial certificate is present on the record, affix the correct notarial certificate found below.

5. Apply the notary's stamping device to the notarial certificate on, affixed, or logically associated with the record.
6. Record the notarial act in the notary's journal.

Short form certificate that may be used for certifying a copy of a record:

State of Maryland

County of (county in Maryland, or City of Baltimore, in which the notarial act occurs)

I certify that this is a true and correct copy of a record in the possession of (name of the person who possesses the record).

Dated the _____ day of (month), 20____ by (name of the person who is certifying a copy of the record).

[affix notary stamp]

Signature of notarial officer

Title of the notarial officer *(Notary Public, Clerk of the Court, etc.)*

My commission expires: _____

CERTIFY A TANGIBLE COPY OF AN ELECTRONIC RECORD

A notarial officer who certifies that a tangible copy of an electronic record is an accurate copy of the electronic record shall:

- reasonably determine whether the electronic record is in a tamper-evident format; and
- personally print or supervise the printing of the electronic record onto paper or other tangible medium.

A notarial officer who certifies that a tangible copy of an electronic record is an accurate copy of the electronic record may not make the certification if the notarial officer has detected a change or an error in an electronic signature or other information in the electronic record.

How does a notary public certify a tangible copy of an electronic record?

The following is a step-by-step process for certifying a tangible copy of an electronic record:

1. The person requesting the notarial act must personally appear before the notarial officer, either in-person or by using communication technology.
2. The notary officer must properly identify the person requesting the notarial act.
3. The notarial officer must reasonably determine whether the electronic record is in a tamper-evident format.
4. The notarial officer must personally print or supervise the printing of the electronic record onto paper or other tangible medium
5. Complete and sign the notarial certificate on the tangible record (including the expiration date of the notary's commission if it is not on the notary's stamping device). If no notarial certificate is present on the record, affix the correct notarial certificate found below.
6. Apply the notary's stamping device to the notarial certificate on, affixed, or logically associated with the record.
7. Record the notarial act in the notary's journal.

Short form certificate that may be used for certifying a tangible copy of an electronic record:

State of Maryland

County of (county in Maryland, or City of Baltimore, in which the notarial act occurs)

I certify that this is a true and correct copy of an electronic record entitled (title of the electronic record), dated the _____ day of (month), 20____, containing (number of pages) pages.

Dated the ____ day of (month), 20____ by (name of the person presenting the tangible copy of an electronic record).

[affix notary stamp]

Signature of notarial officer

Title of the notarial officer *(Notary Public, Clerk of the Court, etc.)*

My commission expires: _____

MAKE OR NOTE A PROTEST OF A NEGOTIABLE INSTRUMENT

It is unlawful for any notary public to sign and issue any protest except in the form prescribed by the Comptroller. A notarial officer who makes or notes a protest of a negotiable instrument shall make or note the protest in accordance with § 3–505(b) of the Commercial Law Article, Maryland Annotated Code.

Commercial Law Article, § 3–505(b) states, “A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.”

A protest is not required except upon dishonor of a draft which on its face appears to be either drawn or payable outside of the United States and its territories, and the District of Columbia.

Matters regarding dishonored negotiable instruments are found in Commercial Law, §§3-501—3-515, Maryland Annotated Code.

PART IX
ELECTRONIC NOTARIZATION
State Gov't Art., § 18-215

A notary may conduct electronic notarizations or use an electronic or digital notary stamping device and signature to perform a notarial act. An electronic notarization ***requires the notary to be in the physical presence of the signer for the completion of the notarial act on the electronic record.*** For an electronic notarization, you are essentially replacing the traditional wet ink signature and notarization process with electronic signatures and an electronic notary stamp.

The notary must maintain an entry in their journal for electronic notarizations in a manner as explained in Part VI of the Notary Handbook.

A notary public shall attach or logically associate the notary public's electronic signature and official stamp to an electronic record by use of a digital certificate complying with the x.509 standard adopted by the international telecommunication union or a similar industry–standard technology.

A notary public may not perform a notarial act with respect to an electronic record if the digital certificate:

- has expired;
- has been revoked or terminated by the issuing or registering authority;
- is invalid; or
- is incapable of authentication.

PART X**REMOTE NOTARIZATIONS***State Gov't Art., §§ 18-214, 18-220, 18-223*

A notary public may perform a notarial act using certain communication technology for a remotely located individual. These notarial acts are known as remote notarial acts, remote online notarial acts, remote notarizations, or remote online notarizations. The requirements of remote notarizations, effective October 1, 2020, are different than those temporarily allowed under the Governor's Order No. 20-03-30-04 authorizing remote notarizations during the COVID-19 state of emergency. ***Remote notarizations using technology primarily intended for video conferencing (such as Skype, Microsoft Teams, Google Meet, etc.) are not allowed under the law.***

Remote notarial acts cannot be performed for a Will or Trust Instrument. All other forms of documentation can be notarized using the services of an authorized remote notary.

The validity of a remote notarial act performed by a Maryland notary public authorized to perform remote notarial acts shall be determined under the laws of Maryland regardless of the physical location of the remotely located individual at the time of the notarial act. ***When performing a remote notarial act, a Maryland notary public is required to be physically located in Maryland.***

The notary public shall notify the Secretary of State that the notary public intends to perform notarial acts facilitated by communication technology prior to performing any notarial acts. The notary public must inform the Secretary of State which technology the notary public intends to use. The Secretary of State created a notification form, which the notary public must submit to the Secretary of State prior to receiving authorization to perform remote notarizations. ***Remote notary notification forms submitted during the COVID-19 state of emergency do not authorize a notary public to perform remote notarizations under the law effective October 1, 2020.***

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 and inform the Office of the Secretary of State which technology vendor the notary will use in lieu of the previous vendor.

A notary public must submit a new remote notary notification form to the Office of the Secretary of State upon each renewal of a notary public's commission. **A notary public's authority to perform remote notarial acts expires with the expiration of their notary public commission.** 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.

Process to become authorized to perform remote notarial acts:

1. Complete, sign, and submit the remote notary notification form required by the Office of the Secretary of State.
2. Select one or more authorized remote online notary vendors; the Secretary of State will maintain a list of authorized remote online notary vendors on its website.
3. If the form is completed and an authorized remote notary online vendor was selected, you will receive an email confirming you are authorized to perform remote notarial acts.
4. If the form is incomplete or an unauthorized remote notary vendor was selected, you will receive an email informing you that you are not authorized to perform remote notarial acts. You are allowed to re-submit a remote notary notification form to correct the error on the originally submitted remote notary notification form.

It is unlawful for any individual to represent themselves as authorized to perform remote notarial acts if they do not meet the criteria required by the Office of the Secretary of State. The Secretary of State may not authorize a notary public to perform traditional or remote notarial acts if the person submits a notary application containing a substantial and material misstatement or omission of fact.

A remote online notary vendor will provide technology training to remote online notaries public. The instruction will prepare notaries public to use the technology and ensure compliance with the requirements of the law. The technology offered by a remote online notary vendor shall include a process for identity proofing and credential analysis, as described below and in the law.

Upon authorization to perform remote notarial acts, a notary public may perform a remote notarial act if:

- A notary public has satisfactorily identified a signer. Methods of satisfactorily identifying a signer are defined in Part IV of the Notary Handbook. Satisfactory identification of a person requesting a remote notarial act includes:
 - Personal knowledge as defined by §18–206(a) of the identity of the remotely located individual.
 - Satisfactory evidence of the identity of a remotely located individual by verification on oath or affirmation from a credible witness appearing before and identified by the notary public under § 18–206(b) or as a remotely located individual; or
 - Remote presentation of an identification credential described in State Government Article, §18–206(b); credential analysis of the identification credential; and identity proofing of the individual §18-223 describes credential analysis and identity proofing in more detail);
- The notary public reasonably confirms 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;
- The notary public, or person acting on behalf and at the direction of the notary public, creates an

- audio–visual recording of the performance of the notarial act; and
- For a remotely located individual located outside the United States:
 - the record 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 involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
 - the notary public has no actual knowledge that the act of making the statement or signing the record is prohibited by the foreign state in which the remotely located individual is located.

A certificate of the notarial act must indicate that the notarial act involved a remotely located individual and was performed using communication technology.

A notary public, a guardian, a conservator, or an agent of a notary public or a personal representative of a deceased notary public shall retain the audio–visual recording created; or cause the audio–visual recording to be retained by a repository designated by or on behalf of the person required to retain the recording.

An audio–visual recording created for a remote notarization shall be retained for a period of at least 10 years after the recording is made.

Nothing shall require any person to accept, agree to, conduct, or complete a remote notarial act. A person that agrees to accept, agree to, conduct, or complete remote notarial act may refuse to do so in any other transaction. 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.

Communication technology shall provide reasonable security measures to prevent unauthorized access to:

- the live transmission of the audio–visual feeds;
- the methods used to perform credential analysis and identity proofing; and
- the electronic record that is the subject of the notarial act.

If a remotely located individual must exit the workflow, the remotely located individual must restart credential analysis and identity proofing from the beginning.

A notary public shall attach or logically associate the notary public’s electronic signature and official stamp to an electronic record by use of a digital certificate complying with the x.509 standard adopted by the International Telecommunication Union or a similar industry–standard technology.

A notary public may not perform a notarial act with respect to an electronic record if the digital certificate:

- has expired;
- has been revoked or terminated by the issuing or registering authority;

- is invalid; or
- is incapable of authentication.

A notary public shall retain a journal required under §18–219 and any audio–visual recordings required under §18–214 in a computer or other electronic storage device that protects the journal or audio–visual recordings against unauthorized access by password or cryptographic process.

May a notary public engage with a third party repository?

A notary public may, by written contract, engage a third party to act as a repository to provide the required storage. A third party, under contract with a notary public, shall be deemed a repository approved by the Secretary of State under §18–219. Pursuant to § 18-223, if a notary does engage in a contract with a third part, the contract shall:

- enable the notary public to comply with the retention requirements of this subtitle even if the contract is terminated; or
- provide that the information will be transferred to the notary public if the contract is terminated.

Identity Proofing and Credential Analysis:

Identity proofing and credential analysis shall be performed by a reputable third party who has provided evidence to the notary public of the ability to satisfy the requirements of the law. A Remote Online Notary Vendor’s technology will provide the mechanism for identity proofing and credential analysis to occur. Remote Online Notary Vendors are discussed in Part XII of the Notary Handbook.

Identity proofing shall be performed through a dynamic knowledge–based authentication that meets the following requirements:

- each remotely located individual must answer a minimum of five questions related to the individual’s personal history or identity, formulated from public or private data sources;
- each question must have a minimum of five possible answer choices;
- at least 80% of the questions must be answered correctly;
- all questions must be answered within 2 minutes;
- if the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;
- during a retake of the questions , a minimum of 40% of the prior questions must be replaced;
- if the remotely located individual fails the second attempt, the individual is not allowed to retry with the same notary public within 24 hours of the second failed attempt; and the notary public must not be able to see or record the questions or answers.

Credential analysis must use public or private data sources to confirm the validity of an identification credential presented by a remotely located individual and shall, at a minimum:

- use automated software processes to aid the notary public in verifying the identity of each remotely located individual;
- ensure that the identification credential passes an authenticity test, consistent with sound commercial practices that:
 - use appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features;
 - use appropriate technologies to confirm that the identification credential is not fraudulent or inappropriately modified;
 - use information held or published by the issuing source or an authoritative source, as available, to confirm the validity of personal details and identification credential details; and
 - provide output of the authenticity test to the notary public; and
- enable the notary public to visually compare the consistency of information and photo on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

PART XI**CHARGES AND FEES***State Gov't Art., § 18-107**COMAR 01.02.08.02*

A notary public may demand and receive up to \$4.00 for the performance of an original notarial act or remote notarial act.

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 \$5.00 for travel if required for the performance of a notarial act.

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 \$4 for each notarial act on the original or first copy of the record, and may demand and receive \$1 for each notarial act on each additional copy of the same record.

A notary may demand and receive not more than \$1.00 for each photocopy made of a notarial act (if asked to make copies of the documents that were notarized).

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

PART XII**PUBLIC INFORMATION***State Gov't Art., § 18-108*

Certain parts of a notary's record are public information under the Maryland Public Information Act, General Provisions Article, §4-332, Annotated Code of Maryland. Those items are:

- the name of the notary public;
- the home address of the notary public;*
- the home and business telephone numbers of the notary public; *
- the issue and expiration dates of the notary public's commission;
- the date the person took the oath of office as a notary public; or
- the signature of the notary public.

The Secretary of State may publish information relating to the status of the commission of a notary public or former notary public, including the date of commencement and expiration of any suspension, nonrenewal, or revocation of a commission.

The Secretary of State may allow inspection of other information about a notary public if the custodian finds a compelling public purpose.

- Information is only provided upon request; it is not provided otherwise.

PART XIII**REMOTE ONLINE NOTARY VENDOR QUALIFICATIONS***COMAR 01.02.08.04*

To qualify as an authorized remote online notary vendor by the Secretary of State, the vendor shall meet the following criteria:

- The vendor shall be incorporated to do business in the United States of America;
- The vendor shall be a company based in the United States of America that has been lawfully operating in the United States of America for at least 3 years;
- All encryption and decryption services provided by the remote online notary vendor shall occur in the United States of America; and **Need wording to clarify intent: everything should be done in the U.S.**
- The vendor shall utilize commercially reasonable practices, procedures, and technology consistent with or better than the practices, procedures, and technology generally used by other vendors engaged in offering remote notarization services.

Technology used by remote online notary vendors shall allow Maryland notaries public to meet requirements of the notary law, including but not limited to the following:

- Allow the notary to securely identify the remotely located individual by personal knowledge or satisfactory evidence as described in State Government Article, §18-214(a)(1)(i)—(iii), Annotated Code of Maryland;
- Allow for the retention of audio-visual recordings created under State Government Article, §18-214(a)(3), Annotated Code of Maryland, for at least 10 years; and
- Ensure that the notary public has access to the audio-visual recordings of their notarial acts.

RESPONSIBILITIES OF A REMOTE ONLINE NOTARY VENDOR*COMAR 01.02.08.05*

- A remote online notary vendor shall receive written authorization from the Secretary of State before allowing its technology to be used by Maryland notaries public.
- A remote online notary vendor shall apply to the Secretary of State for authorization using the form prescribed for this purpose by the Secretary of State.
- Before a remote online notary vendor may provide services to a Maryland notary public, the vendor shall:
 - Provide technology training to the Maryland notary public. The instruction will prepare notaries public to use the technology and ensure compliance with the requirements of the law; and
 - The technology offered by a remote online notary vendor shall include a process for identity

proofing and credential analysis, as described below and in the law; and check with the Office of the Secretary of State or the Office's website to confirm that a notary public is in good standing:

- At the time the notary subscribes to its service; and
- Annually thereafter, for the duration of the notary's subscription to its service.
- A remote online notary vendor shall comply with the information security protections and procedures found in the Maryland Personal Information Protection Act, Commercial Law Article, §14-3501 et seq., Annotated Code of Maryland.
- In the event of a breach of a security system, a remote online notary vendor **shall provide notice as soon as they become aware of the breach** to the Office of the Secretary of State at the same time as giving the notice required by the Maryland Personal Information Protection Act, Commercial Law Article, §14-3504(b), Annotated Code of Maryland.

REVOCATION OF REMOTE ONLINE NOTARY VENDOR AUTHORIZATION

COMAR 01.02.08.06

The Secretary of State may revoke authorization of a remote online notary vendor if the Secretary of State determines that the technologies used by the remote online notary vendor do not meet the requirements of applicable law or regulations. Prior to revoking authorization, the Secretary of State, or their designee, may speak with the vendor informally to determine if the vendor meets the qualifications set forth in Regulation .04 of this chapter and responsibilities set forth in Regulation .05 of this chapter.

PART XIV
DEFINITIONS

When used in this Handbook and in the notary law and regulations, the following terms are defined as follows:

- “Acknowledgment” is 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, the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.
- “Affirmation” means a solemn statement of truth, made under penalty of perjury before a notary public.
- “Civil Judgment: is a decision or order issued by a court in a civil, non-criminal proceeding granting either monetary or nonmonetary relief in favor of a plaintiff and against a defendant. The decision may require the defendant to pay a specific amount of money in damages.
- “Communication technology” is an electronic device or process that:
 - allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and
 - when necessary under and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.
- “Credential analysis” is a process or service by which a third party confirms the validity of an identification credential by a review of public or private data sources.
- “Electronic” means technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- “Electronic signature” is 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.
- “Foreign state” means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.
- “Identity proofing” is a process or service by which a third party 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.
- “In a representative capacity” means acting as:
 - an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;
 - a public officer, personal representative, guardian, or other representative, in the capacity stated in a record;
 - an agent or attorney-in-fact for a principal; or
 - an authorized representative of another in any other capacity.
- “Notarial act” is an act, resulting in a tangible or electronic record, that a notarial officer may

perform under the laws of the state. “Notarial act” 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.
- “Notarial officer” is a notary public or other individual authorized to perform a notarial act.
 - “Notary public” is an individual appointed and commissioned to perform a notarial act.
 - “Notarize” is to perform a notarial act with respect to a document.
 - “Notarization” is the act of notarizing.
 - “Oath” means a sworn solemn statement of truth made under penalty of perjury by an individual who believes in and appeals to a Divine Being to evidence the seriousness of the individual’s actions or words.
 - “Official stamp” is :
 - a physical image affixed to or embossed on a tangible record; or
 - an electronic image attached to or logically associated with an electronic record.
 - “Original notarial act” means the completion of a single notarial act involving one document.
 - “Record” is information that is:
 - inscribed on a tangible medium; or
 - stored in an electronic or other medium and is retrievable in perceivable form.
 - “Remote notarial act” is a notarial act performed by a notary public for a remotely located individual using communication technology.
 - “Remote online notary vendor” is a company that provides communication technology used to facilitate a notarial act for a remotely located individual.
 - “Remote presentation” means transmission to a notary public through communication technology of an image of an identification credential that is of sufficient quality to enable the notary public to reasonably identify the individual and to perform credential analysis.
 - “Remotely located individual” is an individual who is not in the physical presence of the notary public who performs a notarial act.
 - “Sign” means, with present intent to authenticate or adopt a record, to:
 - execute or adopt a tangible symbol; or
 - attach to or logically associate with the record an electronic symbol, sound, or process.
 - “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.
 - “Stamping device” is :
 - a physical device capable of affixing an official stamp to or embossing an official stamp on a tangible record; or

- an electronic device or process capable of attaching an official stamp to or logically associating an official stamp with an electronic record.
- “Verification on oath or affirmation” is a declaration made by an individual on oath or affirmation before a notarial officer that a statement in a record is true or that a remotely located individual has the identity claimed.

PART XV
FREQUENTLY ASKED QUESTIONS

Remote Notary FAQs:

Is a notary still allowed to perform in-person notarizations?

Yes, notaries public can still perform notarial acts in person.

Does the Office of the Secretary of State have a list of communication technology vendors?

The Secretary of State will post a list on our website of Remote Online Notary (RON) vendors who provide communication technology specifically designed to perform RON and who have been approved in Maryland.

Does the Secretary of State endorse a specific commercial brand of communication technology?

No, the Secretary of State does not endorse a specific commercial brand of communication technology platform. However, the RON vendor must be authorized in Maryland in order for you to use that RON Vendor.

Can I charge more than a \$4 notary fee to cover my communication technology vendor costs?

No, \$4 is the fee that may be charged under Maryland law. The \$4 fee is the maximum fee that the Secretary of State may allow for an original notarial act as set forth in § 18-107.

Will a notary public's information be published by the Office of the Secretary of State (SOS)?

Yes. The business phone number provided by each notary will be published on the SOS webpage. Anyone searching for a notary on the SOS notary search page must search for a specific name before a notary's name and information is displayed. The following public information will display when a specific notary is searched: the notary's applicant ID, name, county of commission, expiration date, and business phone number. Home addresses and home phone numbers will not be displayed on the SOS website; that said, be advised that upon request, the Secretary of State's Office is required by law to disclose the home phone number of a notary public pursuant to the Maryland Public Information Act, Section 4-332, Annotated Code of Maryland.

Will the Office of the Secretary of State (SOS) publish a list of notaries public authorized to perform remote notarizations?

Yes. The SOS will publish a list of notaries authorized to perform remote notarizations. The list will be posted on the SOS website.

CLERKS OF THE CIRCUIT COURT IN MARYLAND

Clerk of the Circuit Court Allegany County 30 Washington Street Courthouse Cumberland, MD 21502 301.777.5922	Clerk of the Circuit Court Carroll County 55 N. Court Street Westminster, MD 21157 410.386.8760
Clerk of the Circuit Court Anne Arundel County License Department Courthouse Church Circle Annapolis, MD 21401 410.222.1434	Clerk of the Circuit Court Cecil County License Department 129 East Main Street Elkton, MD 21921 410.996.5380
Clerk of the Circuit Court Baltimore City 100 N. Calvert Street Mitchell Courthouse Baltimore, MD 21202 410.333.3760	Clerk of the Circuit Court Charles County License Department P.O. Box 970 La Plata, MD 20646 301.932.3242
Clerk of the Circuit Court Baltimore County License Department P.O. Box 5754 Towson, MD 21285 410.887.2607	Clerk of the Circuit Court Dorchester County License Department P.O. Box 150 Cambridge, MD 21613 410.228.0480
Clerk of the Circuit Court Calvert County 175 Main Street Prince Frederick, MD 20678 410.535.1660 x2269	Clerk of the Circuit Court Frederick County Courthouse 100 W. Patrick Street Frederick, MD 21702 301.600.1960
Clerk of the Circuit Court Caroline County License Department P.O. Box 458 Denton, MD 21629 410.479.1811	Clerk of the Circuit Court Garrett County License Department Courthouse Oakland, MD 21550 301.334.1937

**CLERKS OF THE CIRCUIT COURT IN MARYLAND
(continued)**

Clerk of the Circuit Court Harford County License Department 7 W. Courtland Street Bel Air, MD 21014 410.638.3489/3586	Clerk of the Circuit Court Somerset County License Department Courthouse Princess Anne, MD 21853 410.845.4840
Clerk of the Circuit Court Howard County License Department 6095 Marshalee Drive, Suite 120 Elkridge MD 21075 410.313.5850	Clerk of the Circuit Court St. Mary's County License Department P.O. Box 676 Leonardtown, MD 20640 301.475.7844 x4582
Clerk of the Circuit Court Kent County Courthouse License Department 103 N. Cross Street Chestertown, MD 21620 410.778.7460	Clerk of the Circuit Court Talbot County License Department 11 N. Washington Street, #16 Easton, MD 21601 410.822.2611
Clerk of the Circuit Court Montgomery County License Department Room 111 Rockville, MD 20850 240.777.9460	Clerk of the Circuit Court Washington County Licensing Department PO Box 229 Hagerstown, MD 21740 301.733.8660
Clerk of the Circuit Court Prince George's County License Department Courthouse Upper Marlboro, MD 20772 301.952.3331	Clerk of the Circuit Court Wicomico County Courthouse License Department P.O. Box 198 Salisbury, MD 21803 410.543.1427 x155
Clerk of the Circuit Court Queen Anne's County License Department 100 Courthouse Square Centreville, MD 21617 410.758.1773	Clerk of the Circuit Court Worcester County Courthouse License Department P.O. Box 40 Snow Hill, MD 21863 410.632.5500

LOCAL ELECTION BOARDS

<u>COUNTY</u>	<u>PHONE</u>
Allegany County	301.777.5931
Anne Arundel County	410.222.6600
Baltimore City.....	410.396.5550
Baltimore County.....	410.887.5700
Calvert County	410.535.2214
Caroline County	410.479.8145
Carroll County	410.386.2080
Cecil County	410.996.5310
Charles County.....	301.934.8972
Dorchester County	410.228.2560
Frederick County	301.600.8683
Garrett County	301.334.6985
Harford County	410.638.3565
Howard County	410.313.5820
Kent County	410.778.0038
Montgomery County.....	240.777.8500
Prince George’s County.....	301.952.7300
Queen Anne’s County.....	410.758.0832
St. Mary’s County	301.475.7844
Somerset County	410.651.0767
Talbot County	410.770.8099
Washington County	240.313.2050
Wicomico County	410.548.4830
Worcester County	410.632.1320