

OFFICE OF THE LIEUTENANT GOVERNOR



Regulations For The Notary Public Division

Submitted this ____ day of _____, 20____

to

GOVERNOR ALBERT BRYAN, JR.

by

TREGENZA A. ROACH, ESQ.

Lieutenant Governor
Office of the Lieutenant Governor

Copy below is hereby certified to be a true and correct copy of Regulations adopted pursuant to authority granted in Title 3 V.I.C., Chapter 29 Subchapter III, Section 836.



Introduction

These regulations are promulgated pursuant to the United States Virgin Islands Uniform Law on Notarial Acts (2022). The purpose of the Act is to set forth a commissioning process and regulation of all notarial acts under Virgin Islands law. The Secretary of State is establishing these rules to comply with the Act.

Specifically, Title 3 Virgin Islands Code, Section 836, authorizes the Lieutenant Governor in his capacity as the Secretary of State to promulgate regulations that establish the qualifications and procedures applicable to persons who are commissioned as notaries public in the Territory of the United States Virgin Islands.

This administrative regulation establishes definitions, prescribes the process of granting, renewing, conditioning, or denying a notary commission, establishes standards for the performance of electronic and remote notarial acts, and establishes standards for the retention of records by notaries public authorized to perform notarial acts with respect to electronic records and notarial acts involving remotely located individuals using communication technology.

Objective

The objective is to provide guidance to the Virgin Islands public, and to notaries public, as to the functions of a notary public. A notary public does not validate the contents of a document, rather, the notary public affixing a stamp and seal to serve as a witness that an individual or individuals voluntarily and willingly signed a document.

Applicability of Regulations

To build public confidence in notaries public, the following regulations are being issued in consideration of the public policies and legislative priorities as set forth in the statute.

Scope and Effect of Regulations

The instant Regulations for the Trust implement, construe, and interpret 3 V.I.C. Subchapters I and III.

Effective Date

The Regulations for the Trust will be published for thirty (30) days to receive and review public comments, after which time period the Regulations will become binding and effective once the Governor signs. Comments should be sent via email to the following address: raquel.penn@lgo.vi.gov

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Notice Of Promulgation

The proposed Regulations will have the force and effect of law after being published in at least one (1) newspaper of general circulation in the Territory for a minimum of thirty (30) days to solicit comments from the public.

3 V.I.C. § 836 A. Statement of Statutory Authority

Pursuant to 3 V.I.C. § 836, the Lieutenant Governor shall prescribe Regulations for notaries public in the Virgin Islands.

771a. Special notaries.

771(a) (a) (1)-1. The Secretary of State recognizes two (2) categories of Special Notaries:

- (a). Government Notaries who serve in the Executive Branch
- (b). Special Notaries who serve in the Judicial and Legislative Branches

771(a) (a) (1)-2. Although all Special Notaries serve “ex officio,” they are still required to meet the qualifications of Section 831(b) of Title 3 of the Virgin Islands Code, and the regulations promulgated by the Secretary of State.

771(a) (a) (1)-3. Any Special Notary is prohibited from performing notarial acts outside of the official business related to the specific Executive, Judicial, or Legislative agency with which the Special Notary is affiliated. The Lieutenant Governor may revoke the commission of a Special Notary for performing notarial acts for anyone outside of the Special Notary’s agency.

771(a) (a) (1)-4. Any Special Notary serving in the Executive, Legislative, or Judicial Branch must include the name of the Special Notary’s agency or institution on the Special Notary’s seal before it is approved by the Secretary of State.

771(a) (a) (1)-5. There is a third category of “special” notaries that are recognized as Business Notaries. Business notaries serve in banks, credit unions, and hotels to administer oaths and affirmations on matters of official business relating to the bank, credit union, or hotel. Each business notary must have the name of the institution included in the information on both the stamp and seal. The stamp and seal are the property of the institution and a business notary must notify the Secretary of State when the notary public is no longer employed by the bank, hotel, or credit union.

778. Fees; retention by notary.

778-1. A notary public may charge \$5 for each notarial act of witnessing a signature and affixing her seal.

778-2. A notary public may charge a fee that does not exceed \$15 for each document

notarized electronically, or for a remotely located individual.

778-3. Fees shall be disclosed to the signer and agreed to by the signer before the notarial act is performed.

778-4. Fees shall be collected when the notarial act is performed.

778-5. All fees shall be recorded in the notary public's journal.

778-6. A notary public may charge an addition travel fee of between \$5 and \$25 for those instances when the notary is required to travel to notarize documents. The fee for any notarial act that is performed by the travelling notary remains at \$5 until changed by statute or regulation.

778-7. A notary public may charge no more than \$15 for certifying a copy of a record in the notary's journal.

811(6)-1. "Notarial Officer." A notary public is a public officer commissioned by the Lieutenant Governor of the Virgin Islands acting in his capacity as the Secretary of the Territory.

813(b)-1. Authority to perform notarial acts. A notary public is prohibited from affixing her stamp and seal on any document (will, trust, deed, contract, etc.) whose contents allow for the notary public to derive any kind of benefit or interest.

814 (a) – (d). Requirements for certain notarial acts.

814(a). A notarial officer who takes an acknowledgment shall require satisfactory evidence of the identity of an individual appearing before her and shall document in the notary's journal the identification number associated with the identification credential as confirmation that the individual signing a record was correctly identified.

814(b). A notarial officer who takes a verification shall require satisfactory evidence of the identity of the verifier appearing before her and shall document in the notary's journal the identification number associated with the identification credential as confirmation that the verifier was correctly identified.

814(c). A notarial officer who witnesses a signature shall require satisfactory evidence of the identity of an individual appearing before her and shall document in

the notary's journal the identification number associated with the identification credential as confirmation that the signer was correctly identified.

814(d). A notarial officer who certifies or attests a copy of a record shall determine that the copy is a true and accurate transcription and shall document in the notary's journal the time, manner, and place in which the determination was made.

824. Notarial act performed for remotely located individual.

824(a)(1)-1. “**Communication technology**” means an electronic notarization system or other form of tamper-resistant technology that allows for two different types of identity proofing.

824(a)(1)-2. Before a notary public may perform electronic notarial acts or notarial acts for remotely located individuals, the notary must register with the Secretary of State and inform the Secretary of State which provider of communication technology and identity proofing will be utilized.

824(b)-1. A notary public shall obtain satisfactory evidence of the identity of a remotely located individual through a multifactor authentication procedure that analyzes the identification credential presented by the remotely located individual against trusted third-person data sources using a process that either:

- (a) uses public or private data sources to confirm the validity of the identification credential; or
- (b) uses automated software processes to aid the notary public in verifying the identification credential of the remotely located individual; or
- (c) uses appropriate technology or software to confirm the integrity of visual, physical, or cryptographic security features on an identification credential; or
- (d) uses technology to confirm that the identification credential is not fraudulent or inappropriately modified, which technology also provides the results of the authenticity test to the notary public in real time.

824(b)-2. After obtaining satisfactory evidence of the identity of the remotely located individual as described by this regulation, the remotely located individual shall visually compare for consistency the information and photo presented on the identification credential itself and the individual as viewed by the notary public in real time through communication technology. The image resolution of the communication technology being used shall be sufficient to enable visual inspection by the notary public, including legible text and the clarity of identification credential features.

824(c)(1)(B)-1. Any notary public may obtain satisfactory evidence of the identity of a remotely located individual by oath or affirmation of a credible witness who must present an identification credential to the notary public which the credible witness is in the same location as the notary public.

824(c)(1)(B)-2. When a notary public uses an identification credential to identify a remotely located individual or a credible witness in the notary public's physical presence for the performance of a notarial act, the notary public shall document in the notary's journal the identification number associated with the identification credential as confirmation that the individual signing the record was correctly identified.

824(d)-1. When a notary public performs a notarial act for a remotely located individual, the notarial certificate shall contain a statement substantially as follows: "This notarial act involved the use of communication technology that meets the electronic and audio-visual standards of existing law and regulations."

828. Stamping device.

828-1. The ink for all stamping devices is blue and no other color is permitted.

828-2(a). Each notary public's stamping device shall be retained under the notary public's sole control.

828-2(b). Each notary public who obtains a new stamping device for use on a tangible record shall destroy or render unusable any previous stamping device, if the previous stamping device is expired, or will no longer be used.

828-2(c). When replacing a stamping device that has been lost or stolen, the notary public shall receive a new commission number to ensure that the new official stamp is different from the prior official stamp.

828-3(a). When affixed to an electronic record, the official stamp on a notarial certificate shall be clear, legible, and photographically reproducible.

828-3(b). Where applicable, a notary public's electronic stamping device shall be retained under the notary public's sole control and shall be secured by the notary public by means of a password or other secure method of authentication. A notary public shall not disclose any access information used to affix the notary public's

electronic signature or official stamp to electronic records, except when required by a court order or subpoena.

828-3(c). A notary public shall promptly notify the Secretary of State about any theft, vandalism, or unauthorized use by another person of the notary public's stamping device. The notary public must file a police report and provide a copy of the same for the Secretary of State to issue a new commission number.

828-3(d). When a notary public resigns a commission or a notary public's commission is revoked, the notary public shall turn in the stamping device to the Secretary of State.

828-4. Except for business notaries, all stamping devices remain the property of the notary public.

829. Journal.

829-1. A notary public shall be responsible for the security her journal and shall not allow another individual to use the journal to perform a notarial act.

829-2. A notary public shall take reasonable steps to maintain the security of the journal and shall not allow access to his or her journal, except:

- (a) when requested by the Secretary of State; or
- (b) when required by court order or subpoena.

829-3. A notary public shall promptly notify the Secretary of State of a lost or stolen journal upon discovering the journal is lost or stolen.

829-4. Upon the revocation, resignation, termination, or suspension of the commission of a notary public the notary public shall turn in the notary public's journal, to the Secretary of State. Where the notary public maintains a public journal in an electronic format, the notary public shall turn in all electronic journal entries and audio-visual recordings on a jump drive, or other electronic file format.

829-5. Each notary public who maintains a notary public journal in an electronic format shall meet the following requirements:

- (1) Retain the journal and any audio-visual recordings in a way that protects the journal and recordings against unauthorized access by means of a password or other secure means; and

(2) take reasonable steps to ensure that a backup of the journal and audio-visual recordings exists and is secure from unauthorized use.

829-6. Each journal, whether electronic or tangible, shall be retained for at least ten (10) years after the last notarial act chronicled in the journal. Each audio-visual recording shall be retained for at least (10) years after the recording is made.

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

830(b)-1. Each notary public who provides notification to the Secretary of State that the notary public intends to perform notarizations of electronic records or notarizations for remotely located individuals, shall disclose the technology to be used, and must deposit a copy of the notary public's electronic signature, and electronic notarial instruments with the Secretary of State.

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

831(a)-1. Effective October 1, 2023, the Secretary of State will send all communications to notaries public using electronic mail. Each notary public is responsible for ensuring that the Secretary of State has a current and active email address.

831(a)-2. Every notary public in the United States Virgin Islands is responsible for reading and understanding all laws as well as regulations, handbooks, and other public guidance issued by the Secretary of State relating to responsibilities of notaries public and the performance of notarial acts.

831(a)-3. Notaries public are public officers, and it is their legal responsibility to perform notarial acts in compliance with the notary law and regulations of the United States Virgin Islands.

831(a)-4. Notaries public are required to notify the Secretary of State within thirty (30) days if, at any time during their commission, there are changes in the following:

A. Name; If a notary has a name change, they must notify the Secretary of State and provide a copy of the name-changing document in order to be issued a commission with the new name.

B. Home address;

- C. Home phone number, if one was provided at the time of application;
- D. Cell phone number;
- E. Electronic mail (email) address;
- F. Business phone number; or
- G. Jurisdiction of residence.

831(b). Upon the first commission, and each subsequent renewal of a commission thereafter, a notary public may only engage in notarial acts if the notary public has completed a course of study and examination set by the Secretary of State. The course of study and examination are designed to test the notary public's knowledge of the laws, regulations, rules, and ethical principles required of those performing notarial acts in the United States Virgin Islands.

831(g)-1. Although notaries public are regarded as public officials, this regulation does not confer any immunity or benefit that is normally conferred by law on public officials or employees. Each notary public is liable for all damages sustained by a party injured by the official misconduct or neglect of the notary public.

831(h)(1)(2). Prior to a commission being renewed, a notary public must deposit all journals and stamping devices with the Secretary of State. The journals shall be examined thoroughly for compliance with all notary laws and regulations prior to the commission being renewed. Where it is evident that a notary has not complied with all notary laws and regulations, the Secretary of State may take corrective action, up to and including refusal to renew the commission of the notary public.

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

832 (a)-1. Any person may file a complaint, in writing, against a notary public with the Secretary of State.

832 (a)-2. The Secretary of State shall review thoroughly each filed written complaint to determine the validity of the complaint. If the Secretary determines the complaint to be valid, then oral or written notification outlining the complaint shall be sent to the notary public. The notary public shall have ten (10) days from the date of the notification to respond to the Secretary of State.

832 (a)-3. If the Secretary of State identifies an error in a notarization submitted to Secretary of State, oral or written notification shall be provided to the notary public outlining the error and providing the notary public with ten (10) days from the date

of the notification to respond.

832 (a)-4. Each response provided by a notary public shall be reviewed thoroughly before any action is taken regarding the notary public's commission. The Secretary of State shall provide written notification to the notary public, stating any action taken regarding the notary public's commission resulting from a complaint received or error identified.

832 (a)-5. A notary public convicted of a felony or crime involving fraud, dishonesty, or deceit shall report the conviction to the Secretary of State within 10 days of the conviction or within ten (10) days after the notary public is released from incarceration, whichever is later. Failure to properly report under this paragraph may result in a revocation of a notary public commission under this regulation.

836. Regulations.

836(a)(7). All fees set forth in Act No. 8542 may be increased by 5% every six (6) months by the Secretary of State after advance notice to the public for thirty (30) days.

**CERTIFICATION BY THE LIEUTENANT GOVERNOR THAT
REGULATIONS WERE DULY PUBLISHED AND CONFORM TO
FORMATTING REQUIREMENTS**

In my capacity as Lieutenant Governor of the United States Virgin Islands, I have reviewed the foregoing Rules and Regulations from the Office of the Lieutenant Governor and find them to be in compliance with Title 3, Chapter 25, and the *Amended Rules and Regulations for Filing and Publication of Regulations in the Territory of the United States Virgin Islands* and hereby approve the same in accordance with 3 V.I.C. § 936.

TREGENZA A. ROACH, ESQ.

Date

GOVERNOR’S APPROVAL & LIEUTENANT GOVERNOR’S ATTEST

Pursuant to the powers vested in me by Section 11 of the Revised Organic Act of 1954, the above Rules and Regulations of the United States Virgin Islands OFFICE OF THE LIEUTENANT GOVERNOR, which were duly published in the [Name of Publication] on[[Date of Publication] are hereby approved.

ALBERT BRYAN, JR.
Governor
United States Virgin Islands

Date

Attest:

TREGENZA A. ROACH, ESQ.
Lieutenant Governor
United States Virgin Islands

Date

CERTIFICATION OF TRANSMITTAL TO LEGISLATURE

I hereby certify that the above approved Amended Rules and Regulations for Filing and Publication of Regulations in the Territory of the United States Virgin Islands from the Office of the Lieutenant Governor were transmitted to the Legislature of the United States Virgin Islands pursuant to 3 V.I.C. § 913(a) on the date noted below.

Governor/Governor's Designee

Date