

**DRAFT LEGISLATION**  
**FOR A**  
**UNIFORM NOTARY ACT**

**NATIONAL NOTARY ASSOCIATION**

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The opinions expressed in the Commentary to the Draft Legislation For A Uniform Notary Act do not necessarily represent those of the Advisory Committee or any individual, organization, office or agency.

## PREFACE

### A Uniform Notary Law

*Because the United States is today a highly integrated and interdependent society, commercial and cultural distinctions which once existed between the states have, to a large extent, disappeared. Thus, there is a great need to modernize and make uniform the various state notary public statutes because:*

- 1. Acts of notaries public are likely to have interstate implications, and,*
- 2. Original justifications for diverse notary public laws have become anachronisms in today's society.*

*A Uniform Notary Law, drafted to meet the commercial and societal needs of the Twentieth Century, would bring all state notary public statutes into conformity.*

*All fifty States and the District of Columbia have enacted statutes concerning notaries public. Many of these laws were passed during the late Eighteenth and Nineteenth Centuries and, to a large extent (despite subsequent modifications), still reflect the commercial and cultural needs of that era. Additionally, many notary statutes also reflect distinctions among the states. For example, Louisiana, with its predominantly French origins, accords much greater status and powers to notaries public than those states such as Connecticut which followed the English common law. Various state notary statutes differ widely in scope; some states have comprehensive legislation regulating notaries public, others have laws which establish only minimal guidelines concerning notaries public. The latter, for example, often omit significant provisions with respect to procedural duties of notaries public in performing their official acts, as well as rules governing the liabilities of notaries public and their removal from office.*

*This proposed Uniform Notary Act is designed to meet the commercial and societal needs of the Twentieth Century by bringing all state notary public statutes into conformity, and, through its detailed provisions, to clarify and define the role of the notary public in modern society.*

*The Uniform Notary Act has been drafted as a comprehensive piece*

*of legislation designed to encompass all facets of the law concerning notaries public. The Act is divided into eight Articles dealing with (I) General Provisions, (II) Appointment Provisions, (III) Powers, (IV) Duties, (V) Forms and Procedures, (VI) Liability, Fines and Imprisonment, (VII) Revocation of Commission, Action for Injunction, Unauthorized Practice of Law, and (VIII) Certificate of Authority. These Articles are further subdivided into parts and sections for quick reference.*

*The language of the statute is uncomplicated and easily comprehended by laymen who, to a great extent, constitute the ranks of notaries public in this country.*



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- 1 (1) words in the singular number include the plural, and  
2 words in the plural number include the singular;  
3 (2) words of the masculine gender include the feminine  
4 and the neuter;  
5 (3) words of the neuter gender may refer to any gender  
6 when the sense so indicates.

7 § 1-103 Prospective Effect of Act

8 This Act applies prospectively. Nothing in this Act shall be  
9 construed to revoke any notary public commission existing on the  
10 effective date of this Act. All renewals of notarial commissions  
11 shall be obtained in accordance with this Act.

12 § 1-104 Construction Against Implicit Repeal

13 This Act is intended to provide comprehensive and unified  
14 coverage of the subject matter. Therefore, no part of it shall be  
15 construed to be impliedly repealed or amended by subsequent  
16 legislation if that construction can be avoided.

17 § 1-105 Notary Public and Notarization Defined

18 (a) The terms “notary public” or “notary” are used inter-  
19 changeably to mean any individual appointed and com-  
20 missioned to perform notarial acts.

21 (b) “Notarization” means the performance of a notarial act.

22 § 1-106 Severability

23 If any provision of this Act or the application thereof to any  
24 person or circumstance is held invalid, the invalidity does not  
25 affect other provisions or applications of the Act which can be  
26 given effect without the invalid provision or application, and to  
27 this end the provisions of this Act are severable.

28 § 1-107 Repeal

29 The following laws and parts of laws are hereby repealed:

30 (1) \_\_\_\_\_

31 (2) \_\_\_\_\_

32 § 1-108 Time of Taking Effect

33 This Act shall take effect \_\_\_\_\_



1 possible for a person who is a registered voter in New York to  
2 become a notary public in California, providing that he obtains the  
3 signatures of three endorsers who are actually registered to vote in  
4 California and provided that the applicant maintains a business or  
5 residence office in California.

6 The applicant takes an affirmation that he has read and  
7 understood the notary law. This affirmation is taken, and an  
8 executed bond is submitted, in advance of the applicant's  
9 appointment and commission by the appointing official. The  
10 intention is to avoid unnecessary red tape for the notary applicant  
11 and the appointing official, by having the applicant fulfill all  
12 requirements at one time—the time of application—and before the  
13 appointing official acts. As noted above, in most instances  
14 commission will be issued as a matter of course, so that seldom  
15 will the bond be submitted or the affirmation taken needlessly.

16 The Applicant's Affirmation Section 2-204 was changed by  
17 amendment of January, 1976 to insure that the applicant cannot  
18 easily obtain an additional notarial commission under an assumed  
19 name.

20 Section 2-301 provides that the appointing state official may  
21 waive the fee for appointment if the notary is to perform acts for  
22 and in behalf of a government office only. However, a notary  
23 commissioned under this section is subject to the remaining  
24 provisions of the Act, e.g., he must file an application and keep a  
25 journal, and he may incur liability under Article VI.

## 27 Article II

### 28 Part I

#### 29 §2-101 Appointment

- 30 (a) Upon application under this Act, the [appointing state  
31 official] may appoint and commission individual persons  
32 as notaries public in this State.  
33

1 (b) The [appointing state official] may not appoint and  
2 commission as a notary public any person who submits an  
3 application containing substantial and material misstate-  
4 ment or omission of fact.

5 § 2-102 Jurisdiction and Term

6 Notaries public may perform notarial acts in any part of this State  
7 for a term of four years, unless sooner removed.

8 § 2-103 Local or District Offices

9 The [appointing state official] may designate such local or district  
10 offices within this State as he deems necessary for the public  
11 convenience to provide certificates of authority and keep records  
12 and specimen official signatures of notaries public whose business  
13 or residence offices are located near the designated local or district  
14 offices.

15 **Part II**

16  
17 § 2-201 Application

18 Every applicant for appointment and commission as a notary  
19 public shall complete an application to be filed with the  
20 [appointing state official] stating:

- 21 (1) that he is a citizen of the United States, or if he is not a  
22 citizen of the United States, that he is a citizen or national  
23 of a country that permits American citizens to become  
24 notaries public therein;
- 25 (2) if he is a citizen of the United States, that he is a qualified  
26 elector of a State at the time of his application;
- 27 (3) that he is able to read and write English;
- 28 (4) the address of his business or residence in this State;
- 29 (5) his social security number, if he has one; and
- 30 (6) that during the past [10] years his commission as a notary  
31 public has not been revoked.

32 § 2-202 Qualifying Fee

33 Every applicant for appointment and commission as a notary

1 public shall pay to the [appointing state official] a fee of [\$6].

2 § 2-203 Applicant's Endorsers

3 Every applicant for appointment and commission as a notary  
4 public shall submit to the [appointing state official] endorsements  
5 from three qualified electors of this State, in the following form:

6 I, \_\_\_\_\_ [name of endorser], a qualified elector of this  
7 State, believe, to the best of my knowledge, the applicant is a  
8 person of good moral character and integrity and capable of  
9 performing notarial acts.

10 \_\_\_\_\_  
11 [Endorser's signature, address and social security number]

12 § 2-204 Applicant's Affirmation

13 \*Every applicant for appointment and commission as a notary  
14 public shall take the following affirmation in the presence of a  
15 person qualified to administer an affirmation in this State:

16 I, \_\_\_\_\_ [name of applicant], solemnly affirm, under  
17 the penalty of perjury, that the answers to all questions in this  
18 application are true, complete and correct; that I have carefully  
19 read the notary law of this State; and, if appointed and commis-  
20 sioned as a notary public, I will perform faithfully, to the best of  
21 my ability, all notarial acts in accordance with the law.

22 \_\_\_\_\_ [Signature of applicant]

23 Subscribed and affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_ ,  
24 19\_\_\_\_. The undersigned notary public further certifies that

25 \_\_\_\_\_ [name of applicant], is known to me to  
26 be the applicant and elector who executed the within Application  
27 for Appointment and Commission as a Notary Public and ac-  
28 knowledged to me that [s]he executed the same for the purposes  
29 therein stated.

30 \_\_\_\_\_ [Official signature and official seal of notary]

31 § 2-205 Bond

32 Every applicant for appointment and commission as a notary  
33 public shall submit to the [appointing state official] an executed

\*Revision January 1976

1 bond commencing at least 30 days after the date the applicant  
2 mails his application to the [appointing state official] with a term  
3 of [4] years, in the sum of [\$5,000], with, as surety thereon, a  
4 company qualified to write surety bonds in this State. The bond  
5 shall be conditioned upon the faithful performance of all notarial  
6 acts in accordance with this Act.

7 § 2-206 Confidential Application

8 Information in the application for appointment, except for the  
9 applicant's name and address, is confidential and may not be  
10 disclosed by an official or employee having access to it to any  
11 person other than the applicant, his authorized representative, or  
12 an employee or officer of the Federal Government, the State  
13 Government, or a local agency, acting in his official capacity. Such  
14 information shall be used by the [appointing state official] for the  
15 sole purpose of performing his duties under this Act.

16 § 2-207 Specimen Official Signature

17 Every applicant for appointment and commission as a notary  
18 public shall mail or deliver to the [appointing state official] a  
19 handwritten specimen of his official signature which contains his  
20 surname and at least the initial of his first name. The fee payable  
21 to the [appointing state official] for recording a specimen of the  
22 official signature is [\$2].

23

24

**Part III**

25

26 § 2-301 State and Local Government Employees

27 (a) The [appointing state official] may appoint and commis-  
28 sion such number of state and local government employees  
29 as notaries public, to act for and in behalf of their  
30 respective state and local government offices, as he deems  
31 proper. An appointee commissioned as a notary public  
32 under this section may act only for and in behalf of the  
33 government office or offices in which he is employed.

- 1 (b) An appointee under this section shall meet the require-  
2 ments for qualification and appointment prescribed in  
3 Article II, Part II, except that the head of the state or local  
4 government office where the applicant is employed may  
5 execute a certificate that the application is made for the  
6 purposes of the office and in the public interest and  
7 submit it to the [appointing state official] together with  
8 the application for appointment as a notary public, in  
9 which case the fee for appointment specified in Section  
10 2-202 is waived.
- 11 (c) Premium on the bond and costs of all other notary  
12 supplies for a commissioned state or local government  
13 employee shall be paid from funds available to the office  
14 in which he is employed.
- 15 (d) All fees received for notarial services by a notary public  
16 appointed for and in behalf of a state or local government  
17 office shall be remitted by him to the state or local  
18 government office in which he is employed.
- 19 (e) A notary public who is an employee of a state or local  
20 government office in this State must comply with all  
21 provisions of this Act.

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1 Article III

2 Part I

3  
4 §3-101 Powers

- 5 (a) Every notary public is empowered to:
- 6 (1) take acknowledgments;
  - 7 (2) administer oaths and affirmations;
  - 8 (3) certify that a copy of a document is a true copy of
  - 9 another document; and
  - 10 (4) perform any other act permitted by law.

11 §3-102 Limitations on Powers

- 12 (a) A notary public who has a disqualifying interest, as
- 13 hereinafter defined, in a transaction may not legally
- 14 perform any notarial act in connection with the trans-
- 15 action.
- 16 (b) For the purposes of this Act, a notary public has a
- 17 disqualifying interest in a transaction in connection with
- 18 which notarial services are requested if he:
- 19 (1) may receive directly, and as a proximate result of the
  - 20 notarization, any advantage, right, title, interest, cash,
  - 21 or property, exceeding in value the sum of any fee
  - 22 properly received in accordance with Section 4-401 of
  - 23 this Act, or
  - 24 (2) is named, individually, as a party to the transaction.
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## Commentary – Article IV

*This article contains a list of duties that the notary public is obliged to perform for the protection of the party who signed and for the public-at-large.*

*By keeping a journal of his notarial acts, the notary public makes it possible for anyone who questions the authenticity of the signature on the document at a later date to obtain evidence of such authenticity from the notary's journal that could be used in a legal action. The journal serves (1) to discourage forgers and impostors by requiring a signature in the journal that can be compared with the signatures on the document and on any identification cards presented; (2) to provide the notary with evidence (the person's signature in the journal) if it is later necessary for the notary to prove in court that the person actually appeared before him; and (3) to ensure that the person was properly identified by requiring the notary to enter evidence of identification in the journal. The pages of the journal must be numbered and irremovable so that entries cannot be made or pages inserted after the person whose signature has been notarized has left the notary's office.*

*Evidence of identity required in Section 4-102(5) is necessary to avoid forgery and impersonation. Sufficient evidence of identification should be requested and the information recorded in the notary's journal. Nothing has been included in this Act defining exactly what constitutes positive identification of an individual; this must ultimately be decided by a court of law. The notary public is obliged to perform his duties in such a way that this question will rarely need to be settled in a court of law. A person could present to the notary public, as evidence of his identity, one or more kinds of identification such as cards or passports. The notary is obligated to exercise the judgment of a prudent person of average intelligence to decide whether he should*

1     *accept this evidence as satisfactory and sufficient. If the person is*  
2     *personally known to the notary public as a friend, relative or*  
3     *associate, no identification cards would be necessary. The friend's*  
4     *appearance, voice, mannerisms and other physical characteristics*  
5     *could provide the notary public with sufficient and satisfactory*  
6     *evidence of identity.*

7             *The person's signature in the notary's journal is, of course,*  
8     *always mandatory regardless of what methods or means are*  
9     *accepted as satisfactory and sufficient for identification purposes.*  
10    *By requiring in Section 4-103 that the person whose signature is*  
11    *being notarized sign in the notary's journal, the forger and/or*  
12    *impostor must duplicate his forgery at the time of the notarial act*  
13    *on the document to be notarized and in the notary's journal. At*  
14    *the time of the performance of the notarial act, the notary public*  
15    *must carefully compare the person's signature on the identifica-*  
16    *tion card or cards with those subscribed in the notary's presence*  
17    *on the document and in the notary's journal.*

18            *The person whose signature is being notarized must appear*  
19    *before the notary at the time of the notarization to subscribe his*  
20    *name in the notary's journal to avoid the notary's fraudulent*  
21    *certificate occasioned when a party presenting a document for*  
22    *notarization attempts to circumvent the executing witness provi-*  
23    *sions (§ 5-103), e.g., by assuring the notary: "My spouse signed*  
24    *this deed at home, you can take my word for it."*

25            *Good business practice dictates that the notary public and the*  
26    *persons whose signatures were notarized initial all corrections and*  
27    *each page of the agreement in a corner as well as affix their*  
28    *signatures in the proper place on the document and notary's*  
29    *certificate.*

30            *Section 4-104 requires that a notary furnish facsimiles of his*  
31    *journal or other records upon receipt of a written court order, and*  
32    *only upon such order.*

33            *Section 4-202 introduces one of the most important innova-*

1     *tions in notary law offered in this Act: it provides for the*  
2     *mandatory use of a rubber stamp seal capable of photographic*  
3     *reproduction. This change both updates notary law to take*  
4     *account of modern copying technology, and mandates uniform*  
5     *nationwide use of a manifestation of notarization (rubber stamp*  
6     *seal) that all persons may henceforth recognize.*

7     *The introduction of the rubber stamp seal overrules the*  
8     *long-standing use of the seal embosser, which § 4-203 now makes*  
9     *optional. In earlier times, a “seal” was used in lieu of the personal*  
10    *signature, for many people did not know how to write their*  
11    *names. Today the seal embosser has an entirely different purpose*  
12    *and should be used in addition to the rubber stamp seal. The seal*  
13    *embosser makes indentations into paper that cannot be photo-*  
14    *graphically reproduced, thus helping to positively identify the*  
15    *document that was intended to be notarized from an altered*  
16    *machine copy that does not have the indentations made by the*  
17    *notary’s seal embosser. If a document contains more than one*  
18    *page, the seal embosser should be used in a corner of each page. If*  
19    *there is not enough space on the document for the notary’s*  
20    *certificate, the notary’s loose certificate should be stapled to the*  
21    *document and the seal embosser should be used to squeeze the*  
22    *document and the notary’s certificate together.*

23    *It should also be noted that reproduction of the Great Seal of*  
24    *the State is not prescribed on the rubber stamp seal or seal*  
25    *embosser.*

26    *Although illegibility of required information will not in itself*  
27    *invalidate a notarization (§ 4-204), an omission could affect its*  
28    *validity.*

29  
30                                    **Article IV**

31    **Part I**

32  
33    § 4-101     Journal

1 Every notary public shall provide and keep a permanently-bound  
2 journal of his notarial acts containing numbered pages.

3 § 4-102 Entries in Journal

4 Every notary public shall make a chronological list of all notarial  
5 acts in his journal. The information to be entered in the journal at  
6 the time of notarization shall include:

- 7 (1) the date and time of the notarial act;
- 8 (2) the type of notarial act performed;
- 9 (3) a description of the document, agreement, or proceeding;
- 10 (4) the printed name and address of each person whose  
11 signature is notarized;
- 12 (5) evidence of identity (including serial number of card and  
13 title of issuing authority, if available) exhibited to the  
14 notary public by the person whose signature is notarized;  
15 and
- 16 (6) other entries necessary by virtue of additional powers  
17 granted in Section 3-101.

18 § 4-103 Signature in Journal

19 At the time of notarization, each person for whom a notarial act is  
20 to be performed shall sign his name in the notary's journal.

21 § 4-104 Facsimiles of Records; Duty to Furnish

- 22 (a) "Facsimile" means an exact copy preserving all the written  
23 or printed marks of the original.
- 24 (b) Every notary public, upon written court order, shall  
25 furnish facsimiles of entries made in his journal of notarial  
26 acts or any other papers or copies relating to his notarial  
27 acts, upon receipt of a fee of \_\_\_\_\_ [suggested minimum  
28 \$1 per 8½" x 11" page or part of a page].

30 **Part II**

31  
32 § 4-201 Official Signature

33 At the time of notarization a notary public shall sign his official

1 signature on every notary certificate.

2 § 4-202 Rubber Stamp Seal

3 Under or near his official signature on every notary certificate, a  
4 notary public shall rubber stamp clearly and legibly, so that it is  
5 capable of photographic reproduction:

6 (1) the words “Official Seal”;

7 (2) his name exactly as he writes his official signature;

8 (3) the words “Notary Public”, “State of [name of state]”,  
9 and “My commission expires [commission expiration  
10 date]”;

11 (4) the address of his business or residence in this State; and

12 (5) a serrated or milled edge border in a rectangular form not  
13 more than [one inch in width by two and one-half inches  
14 in length] surrounding the information.

15 § 4-203 Seal Embosser

16 (a) Every notary public may provide, keep, and use a seal  
17 embosser engraved to show the words “Notary Seal”, his  
18 name, “Notary Public”, and “State of [name of state]”.

19 (b) The indentations made by the seal embosser shall not be  
20 applied on the notarial certificate or document to be  
21 notarized in a manner that will render illegible or incapable  
22 of photographic reproduction any of the printed marks or  
23 writing.

24 § 4-204 Illegibility

25 The illegibility of any of the information required by Sections  
26 4-201 through 4-203 does not affect the validity of a transaction.

27  
28 **Part III**

29  
30 § 4-301 Change of Address

31 Every notary public shall mail or deliver notice to the [appointing  
32 state official] within 30 days after he changes the address of his  
33 business or residence in this State. The fee payable to the

1 [appointing state official] for recording notice of change of  
2 address is [\$2].

3 § 4-302 Change of Notary's Name

4 Every notary public shall mail or deliver notice to the [appointing  
5 state official] within 30 days after he changes his name, including  
6 with the notification a specimen of his handwritten official  
7 signature which contains his surname and at least the initial of his  
8 first name. The fee payable to the [appointing state official] for  
9 recording notice of change of notary's name is [\$2].

10 § 4-303 Lost Journal or Official Seal

11 Every notary public shall mail or deliver notice to the [appointing  
12 state official] within 30 days after he loses or misplaces his journal  
13 of notarial acts or Official Seal. The fee payable to the [appointing  
14 state official] for recording notice of a lost journal or seal is [\$2].

15  
16 **Part IV**

17  
18 § 4-401 Notice and Maximum Fees

19 Every notary public who is not licensed to practice law in this  
20 State shall post a notice in his business office, printed in 10 point  
21 or larger size type, in the English [and \_\_\_\_\_] language[s]  
22 containing the following statements:

23 (1) \_\_\_\_\_ [print notary's name], a notary public  
24 whose commission expires on \_\_\_\_\_ [insert  
25 expiration date], is not licensed to practice law in this  
26 State and may not give legal advice.

27 (2) The maximum fee in this State for notarization of each  
28 signature and the proper recordation thereof in the journal  
29 of notarial acts is [\$2] for each signature notarized.

30 (3) The maximum fee in this State for certification of a  
31 facsimile of a document, retaining a facsimile in the  
32 notary's file, and the proper recordation thereof in the  
33 journal of notarial acts is [\$2] for each 8½" x 11" page



1 retained in the notary's file.

2 (4) The maximum fee in this State is [insert amount] for any  
3 other notarial act performed.

4 (5) A notary public who charges more than the maximum fees  
5 specified, or fails to post this notice, is guilty of official  
6 misconduct.

7  
8 **Part V**

9  
10 § 4-501 Death

11 If a notary public dies during the term of his appointment, his  
12 heirs or personal representative, as soon as reasonably possible  
13 after the notary's death, shall send by certified mail or deliver to  
14 the [appointing state official] the deceased notary's journal of  
15 notarial acts and all other papers and copies relating to his notarial  
16 acts. His heirs or personal representative shall destroy forthwith  
17 his official seal.

18 § 4-502 Resignation or Removal

19 If a notary public no longer desires to be a notary public or has  
20 ceased to have a business or residence address in this State, he shall  
21 send forthwith by certified mail or deliver to the [appointing state  
22 official] a letter of resignation, his journal of notarial acts, and all  
23 other papers and copies relating to his notarial acts. He shall  
24 destroy forthwith his official seal. His commission shall thereupon  
25 cease to be in effect.

26 § 4-503 Revocation of Commission

27 Immediately after receiving notice from the [appointing state  
28 official] that his commission has been revoked, the person whose  
29 commission is revoked shall forthwith send by certified mail or  
30 deliver to the [appointing state official] his journal of notarial acts  
31 and all other papers and copies relating to his notarial acts. He  
32 shall destroy forthwith his official seal.

33 § 4-504 Failure to be Reappointed

1 A notary public who is not reappointed to act as a notary public  
2 within thirty days after the expiration of his commission shall  
3 send forthwith by certified mail or deliver to the [appointing state  
4 official] his journal of notarial acts and all other papers and copies  
5 relating to his notarial acts. He shall destroy forthwith his official  
6 seal.

7 § 4-505 Reappointment

8 (a) No person may be automatically reappointed as a notary  
9 public.

10 (b) Every notary public who is an applicant for reappointment  
11 as a notary public shall comply with the provisions of  
12 Article II.

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## Commentary – Article V

*The forms prescribed must be substantially followed for the notarization to be recognized and effective in the adopting state. The form in § 5-101(6) is not exclusive when executed by a notary not commissioned by this Act, but is exemplary, showing a form that, when used by a person outside of the adopting state, is assured to be understood as a notarization. The adopting state cannot, of course, prescribe notarization procedures to be followed by a notarial officer acting in his official capacity and pursuant to an Act of Congress, nor can it deny effect to such a notarization. A U.S. Consul, U.S. military officer, or foreign notary using the form prescribed in § 5-101(6) should include both his title and the authority or law under which he is acting as a notary.*

*The form of the acknowledgment is prescribed in this Act to emphasize the importance of the statement that is signed by the notary public. If the document is important enough to be notarized, the notary public should be obliged to sign a proper certificate of acknowledgment that includes the words “known to me to be the person.” This clause states that the notary public had sufficient evidence that the person described in and who executed the document was the person who appeared before him. Further, each § 5-101 form states that the document being notarized has been signed for “purposes therein stated,” implying competency of the person signing the document and helping to clarify the meaning of the word “acknowledgment.” If a person appears to be incompetent, the notary public must use good judgment in determining whether he should perform his notarial act.*

*The Executing Witness Form in § 5-103 provides for an acknowledgment by a person who is unable to appear before a notary. This form prevents undue hardship caused by illness or inability to obtain a notary.*



1 in behalf of said partnership and acknowledged to me that  
2 he executed the same for the purposes therein stated.

3 \_\_\_\_\_[official signature and official seal of  
4 notary.]

5 (3) By a Corporate Officer.

6 State of \_\_\_\_\_, County (and/or City) of \_\_\_\_\_  
7 \_\_\_\_\_. On this \_\_\_\_\_ day of \_\_\_\_\_ in the  
8 year \_\_\_\_\_, before me, \_\_\_\_\_ [name of notary],  
9 a Notary Public in and for said state; personally appeared  
10 \_\_\_\_\_ [name of officer], \_\_\_\_\_ [title  
11 of person (president, vice president, etc.) ], \_\_\_\_\_  
12 [name of corporation], known to me to be the person  
13 who executed the within \_\_\_\_\_ [type of  
14 document] in behalf of said corporation and acknowl-  
15 edged to me that he executed the same for the purposes  
16 therein stated.

17 \_\_\_\_\_[official signature and official seal of  
18 notary.]

19 (4) By an Attorney in Fact for Principal or Surety.

20 State of \_\_\_\_\_, County (and/or City) of \_\_\_\_\_  
21 \_\_\_\_\_. On this \_\_\_\_\_ day of \_\_\_\_\_, in the year  
22 \_\_\_\_\_ before me \_\_\_\_\_ [name of notary], a  
23 Notary Public in and for said state, personally appeared  
24 \_\_\_\_\_ [name of attorney in fact], Attorney in  
25 Fact for \_\_\_\_\_ [name of principal or surety],  
26 known to me to be the person who executed the within  
27 \_\_\_\_\_ [type of document in behalf of said  
28 principal (or surety) ], and acknowledged to me that he  
29 executed the same for the purposes therein stated.

30 \_\_\_\_\_ [official signature and official seal of  
31 notary.]

32 (5) By a Public Officer, Deputy, Trustee, Administrator,  
33 Guardian or Executor.

1 State of \_\_\_\_\_, County (and/or City) of \_\_\_\_\_  
2 \_\_\_\_\_ . On this \_\_\_\_\_ day of \_\_\_\_\_, in the year  
3 \_\_\_\_\_, before me \_\_\_\_\_ [name of notary], a  
4 Notary Public in and for said state, personally appeared  
5 \_\_\_\_\_ [name of person], \_\_\_\_\_,  
6 [person's official title] known to me to be the person who  
7 executed the within \_\_\_\_\_ [type of document]  
8 in behalf of said \_\_\_\_\_ [public corporation,  
9 agency, political subdivision or estate] and acknowledged  
10 to me that he executed the same for the purposes therein  
11 stated.

12 \_\_\_\_\_ [official signature and official seal of  
13 notary.]

14 (6) By a United States Citizen Who is Outside of the United  
15 States.

16 \_\_\_\_\_ [description or location of place where  
17 acknowledgment is taken]

18 On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_,  
19 before me \_\_\_\_\_ [name and title of person  
20 acting as a notary and refer to law or authority granting  
21 power to act as a notary], personally appeared \_\_\_\_\_  
22 \_\_\_\_\_, [name of citizen] known to me to be the person  
23 who executed the within \_\_\_\_\_ [type of  
24 document] and acknowledged to me that \_\_\_\_\_  
25 [he] executed the same for the purposes therein stated.

26 \_\_\_\_\_ [official signature and official seal of  
27 person acting as a notary and refer to law or authority  
28 granting power to act as a notary].

29 (7) By An Individual Who Cannot Write his Name.

30 State of \_\_\_\_\_, County (and/or City) of \_\_\_\_\_  
31 \_\_\_\_\_ . On this \_\_\_\_\_ day of \_\_\_\_\_, in the year  
32 \_\_\_\_\_, before me \_\_\_\_\_ [name of notary], a  
33 Notary Public in and for said state, personally appeared

1 \_\_\_\_\_ [name of individual], known to me to be  
2 the person who, being unable to write his name, made his  
3 mark in my presence. I signed his name at his request and  
4 in his presence on the within \_\_\_\_\_ [type of  
5 document] and he acknowledged to me and the two  
6 witnesses who have signed and printed their names and  
7 addresses hereto, that he made his mark on the same for  
8 the purposes therein stated.

9 \_\_\_\_\_ [official signature and official seal of  
10 notary.] \_\_\_\_\_

11 \_\_\_\_\_ [signatures of two wit-  
12 nesses and their addresses.]

13 § 5-102 Affirmation: Procedure, Form

14 (a) If the affirmation to be administered by the notary public  
15 is in writing and the person who took the affirmation has  
16 signed his name thereto, the notary public shall write or  
17 print under the text of the affirmation the following:

18 “Subscribed and affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_, 19\_\_\_\_.”

20 \_\_\_\_\_ [official signature and official seal of  
21 notary.]

22 (b) If the affirmation to be administered by the notary public  
23 is not in writing, the notary public shall address the  
24 affirmant substantially as follows:

25 “You do solemnly affirm, under the penalty of perjury,  
26 that the testimony you shall give in the matter in issue,  
27 pending between \_\_\_\_\_ and \_\_\_\_\_,  
28 shall be the truth, the whole truth, and nothing but the  
29 truth.”

30 § 5-103 Executing Witness Form

31 (a) “Executing witness” as used in this section means an  
32 individual who acts in the place of a notary

33 (b) An executing witness may not be related by blood or

1 marriage or have a disqualifying interest as defined in  
2 Section 3-102.

- 3 (c) The affidavit of executing witness for acknowledgment by  
4 an individual who does not appear before a notary shall be  
5 substantially in the following form:

6 I, \_\_\_\_\_ [name of executing witness], do  
7 solemnly affirm under the penalty of perjury, that \_\_\_\_\_  
8 \_\_\_\_\_ [name of person who does not appear before a  
9 notary], personally known to me, has executed the within  
10 \_\_\_\_\_ [type of document] in my  
11 presence, and has acknowledged to me that \_\_\_\_\_  
12 [he] executed the same for the purposes therein stated  
13 and requested that I sign my name on the within  
14 document as an executing witness.

15 \_\_\_\_\_ [signature of executing witness.]

16 Subscribed and affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_  
17 \_\_\_\_\_ 19\_\_.

18 \_\_\_\_\_ [official signature and official seal of  
19 notary.]

20 § 5-104 Certified Facsimiles of Documents: Procedure, Form

- 21 (a) A notary public may certify a facsimile of a document if  
22 he receives a signed written request stating that:

23 (1) a certified copy or facsimile of the document cannot  
24 be obtained from the office of any recorder of public  
25 documents or custodian of documents in this State;  
26 and,

27 (2) the production of a facsimile, preparation of a copy, or  
28 certification of a copy of the document does not  
29 violate any state or federal law.

- 30 (b) Every notary public shall retain a facsimile of each  
31 document he has certified as a facsimile of another  
32 document, together with other papers or copies relating to  
33 his notarial acts.



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(c) The certification of a facsimile shall be substantially in the following form:

State of \_\_\_\_\_ , County (and/or City) of \_\_\_\_\_  
\_\_\_\_\_. I, \_\_\_\_\_ [name of notary], a Notary  
Public in and for said state, do certify that on \_\_\_\_\_  
\_\_\_\_ [date] I carefully compared the attached facsimile of  
\_\_\_\_\_ [type of document] and the facsimile I  
now hold in my possession. They are complete, full, true  
and exact facsimiles of the document they purport to  
reproduce.  
\_\_\_\_\_ [official signature and official seal of  
notary.]



1 misconduct.

2 §6-103 Proximate Cause

3 It is not essential to a recovery of damages that a notary's official  
4 misconduct be the only proximate cause of the damages.

5  
6 **Part II**

7  
8 §6-201 Official Misconduct Defined

9 The term "official misconduct" means the wrongful exercise of a  
10 power or the wrongful performance of a duty. The term  
11 "wrongful" as used in the definition of official misconduct means  
12 unauthorized, unlawful, abusive, negligent, reckless, or injurious.

13 §6-202 Official Misconduct

14 (a) A notary public who knowingly and willfully commits any  
15 official misconduct is guilty of a [class of offense] and  
16 punishable upon conviction by a fine not exceeding  
17 [\$5,000] or by imprisonment for not more than [one  
18 year], or both.

19 (b) A notary public who recklessly or negligently commits any  
20 official misconduct is guilty of a [class of offense] and  
21 punishable upon conviction by a fine not exceeding  
22 [\$1,000].

23 §6-203 Willful Impersonation

24 Any person who acts as, or otherwise willfully impersonates, a  
25 notary public while not lawfully appointed and commissioned to  
26 perform notarial acts is guilty of a [class of offense] and  
27 punishable upon conviction by a fine not exceeding [\$5,000] or  
28 by imprisonment for not more than [one year], or both.

29 §6-204 Wrongful Possession

30 Any person who unlawfully possesses a notary's journal, official  
31 seal or any papers or copies relating to notarial acts, is guilty of a  
32 [class of offense] and punishable upon conviction by a fine not  
33 exceeding [\$1,000].

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## Commentary – Article VII

*The revocation provisions are not mandatory. The state appointing official is vested with discretion, within the bounds of reason and fairness, to uphold the integrity of the Act and of the office of notary public by invoking the revocation sanction in appropriate circumstances. Repeated disregard of the Act's procedural requirements, or conviction of criminal acts calling personal integrity into question, would be serious enough to warrant revocation of a commission. Minor variances with requirements or the belated submission of matter relevant to an application for appointment may not necessitate removal.*

*The notary must retain his qualification to vote in a state election and maintain a residence or business office within the state, or his commission may be revoked. These requirements are intended to avoid the possibility that a notary, in jail or convicted of a crime that involves loss of voting privilege, could not be removed from office.*

*Revocation of Commission, Section 7-101 was changed by amendment of January, 1976. Paragraph 5 was added to further clarify the notary's responsibility to be impartial and unbiased. A notary should not use his title of notary public when signing his name to an endorsement of a product, service or person. The title of notary public should not be used to imply that a product is of good quality because the person who signed the endorsement was a notary public. Paragraph 6 was added because some notaries public advertise themselves as notaries public in a language other than English. In some foreign countries the title of notary public can be used only by those who have had many years of education and training. An entirely different problem arises when the notary's employer advertises "Free notary service to customers only." This practice is discriminatory. The notary's employer has also been known to use a valid notarization in advertising intended*

1 to make the buyer believe the offer is more valuable by virtue of  
2 the display of the notarization or a notary's seal.

3 Part II of this Article provides a means of enforcing the ban on  
4 the unauthorized practice of law. Some notaries public who are  
5 not attorneys believe that, by virtue of their notarial appoint-  
6 ments, they are allowed to give legal advice or practice law. The  
7 practice of law and the practice of a notary public, heretofore,  
8 have been so entwined and confused that it seems appropriate to  
9 make this procedure available when the appointing state official  
10 does not act under the revocation provisions in Part I.

## 11 Article VII

### 12 Part I

#### 13 § 7-101 Revocation of Commission

14 The [appointing state official] may revoke the commission of any  
15 notary public who during the current term of appointment:

- 16 (1) submits an application for commission and appointment as  
17 a notary public which contains substantial and material  
18 misstatement or omission of fact;
- 19 (2) is convicted of any felony or official misconduct under  
20 this Act;
- 21 (3) fails to exercise the powers or perform the duties of a  
22 notary public in accordance with this Act;
- 23 (4) is adjudged liable or agrees in a settlement to pay damages  
24 in any suit grounded in fraud, misrepresentation, imper-  
25 sonation, or violation of the state regulatory laws of this  
26 State, if his liability is not solely by virtue of his agency or  
27 employment relationship with another who engaged in the  
28 act for which the suit was brought;
- 29 \*(5) represents or implies from unauthorized use of his title of  
30 notary public that he has qualifications, powers, duties,  
31 rights, or privileges that by law he does not possess;
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- 33

\*Revision January 1976





DRAFT LEGISLATION  
FOR A

# Uniform Notary Act

THE POSITION OF THE  
NATIONAL NOTARY ASSOCIATION



*The National Notary Association first published the Draft Legislation For A Uniform Notary Act in September, 1973. In less than five years, Missouri and California adopted this model law virtually in toto. Other states have since introduced revisionary legislation based, in large part, on the Uniform Notary Act.*

*As one of the authors of the Act, the NNA has been asked to actively promote its passage. Consequently, this position paper has been prepared to explain both the NNA's long-standing role as a non-advocate and its purpose in donating the Draft Legislation For A Uniform Notary Act to the public domain.*

## PURPOSE OF THE NATIONAL NOTARY ASSOCIATION

The National Notary Association was founded in 1957 to "impart knowledge, understanding, and unity among Notaries Public in their service to society." Education of the nation's more than 2.5 million Notaries on legal, technical, and ethical facets of their calling has remained the primary goal of the Association. As a teacher, the NNA has long noted that a lack of both definitiveness and uniformity among state notarial codes has been a major obstacle in the education of Notaries.

Society, though, is the real victim of the nation's diverse, often conflicting, and usually less than comprehensive Notary statutes, many enacted over 200 years ago. These laws, reflecting the isolationist, rural culture of a bygone era, are conspicuously out of tune with the realities of modern commerce.

The NNA became convinced it is in the best interests of society that a comprehensive and modern code be uniformly adopted by all states.

## GENESIS OF THE UNIFORM NOTARY ACT

While the NNA possessed the expertise in notarial customs and practices to lay the foundation for a model law, it required the expertise of attorneys, lawmakers, and governing officials to ensure that this law was workable and legally sound.

Thus, the NNA contacted Yale Legislative Services of Yale Law School to assist in preparing a draft. An organization providing drafting services for public interest legislation, Yale Legislative Services accepted this challenge.

The NNA also formed an Advisory Committee of concerned legislators, secretaries of state, recorders, attorneys, judges, and Notaries from around the nation to evaluate the drafts. Committee members

worked without compensation for what one member termed "this critical public-interest legislation."

*The Draft Legislation For A Uniform Notary Act*, then, was created through the combined efforts of Yale Legislative Services, a distinguished 12-person Advisory Committee, and the National Notary Association. Drafted in everyday language, the Act embodies significant departures from present Notary laws, including: stringent notarial recordkeeping requirements; mandatory bonding of all Notaries; specification of wording for a wide variety of notarial certificates. For the first time, modern Notaries are given clear and comprehensive guidelines for performing their duties.

### THE NNA'S EDUCATIONAL ROLE

The NNA believes that its adherence to a non-advocative, strictly educational role best serves both Association members and society at large. The NNA's commitment to education is total: it will not divert energies or financial resources to lobbying efforts for the Uniform Notary Act or any other legislation.

The Uniform Notary Act must stand on its own merits and recommend itself to legislators concerned with the public interest. The Association is prepared to provide these legislators with a wealth of background information and technical assistance on the Uniform Notary Act in particular and on the Notary office in general. Further, legislators can expect "grass roots" support from the tens of thousands of NNA members and other Notaries whom the Association has impressed with the importance of statutory reform.

The NNA has donated the *Draft Legislation For A Uniform Notary Act* to the public domain and will not withhold rights to publication or use by any responsible group. Not only legislators, but public-spirited attorneys, bar associations, consumer-protection groups, and all persons concerned with effective Notary laws should have a strong interest in the Uniform Notary Act.

### ENACTING THE UNIFORM NOTARY ACT

The *Draft Legislation For A Uniform Notary Act* is a model, to be adopted as a whole or in part. It was authored by the nation's leading authorities on the office of Notary Public to provide legislators with a workable alternative to the United States' largely outmoded notarial statutes. A growing volume of interstate and international transactions lends increasing urgency to the need for uniform Notary laws reflecting the realities of 20th century society. Lawmakers can look to the *Draft Legislation For A Uniform Notary Act* as the most authoritative and definitive guide to Notary law reform available.



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