

SENATE No. 00690

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating notaries public to protect consumers..

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

SENATE No. 00690

By Ms. Creem, petition (accompanied by bill, Senate, No. 690) of Creem for legislation to regulate notaries public to protect consumers [Joint Committee on the Judiciary].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 1845 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act regulating notaries public to protect consumers..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 222 of the General Laws is hereby amended by striking out
2 section 1 and inserting in place thereof the following section:

3 Section 1. Justices of the peace and notaries public shall be appointed, and their
4 commissions shall be issued for the commonwealth. They shall have jurisdiction throughout the
5 commonwealth when acting under the sole authority of such a commission, and shall perform
6 their duties subject to sections 8 to 27, inclusive. Unless otherwise expressly provided, they may
7 administer oaths or affirmations in all cases in which an oath or affirmation is required, and take
8 acknowledgments of deeds and other instruments.

9 SECTION 2. Said chapter 222 is hereby further amended by striking out sections 8
10 and 8A and inserting in place thereof the following section:

11 Section 8. (a) When taking acknowledgment of any instrument or administering an
12 oath with relation to an instrument filed in court, a justice of the peace, notary public or other
13 person duly authorized shall print or type his name directly below his signature and affix thereto
14 the date of the expiration of his commission in the following language: "My commission expires
15 _____."

16 (b) A notary shall keep an official notarial seal or stamp that shall be the exclusive
17 property of the notary, and a notary shall not permit another to use such notarial seal or stamp. A
18 notary public shall obtain a new seal or stamp upon renewal of his commission, upon receipt of a
19 new commission, receives a new commission, or if he changes his name. The notarial seal or
20 stamp shall include: (i) the notary public's name exactly as indicated on the commission; (ii) the
21 words "notary public," "Commonwealth of Massachusetts" or "Massachusetts," (iii) the date of
22 the expiration of the commission in the following language: "My commission expires ____"; and
23 (iv) a facsimile of the great seal of the commonwealth. Whenever a notarial seal that requires
24 ink is employed, black ink shall be used. The requirements of this subsection shall be satisfied
25 by using a stamp and a seal that, together, include all of the information herein required. Failure
26 to comply with this section shall not affect the validity of any instrument or the record thereof.

27 SECTION 3. Section 11 of said chapter 222 is hereby amended by inserting after the
28 word "dependents," in line 2, the following words: or members of the Massachusetts National
29 Guard or other Reserve Component Commands when conducting mobilization exercises and
30 Soldier Readiness Processing.

31 SECTION 4. Said chapter 222 is hereby further amended by striking out section 12
32 and inserting in place thereof the following section:

33 Section 12. Notwithstanding section 23 or any other general law, rule, regulation or
34 order to the contrary, a notary public who is an attorney or who is employed by an attorney shall
35 not be required to maintain a journal of notary transactions.

36 SECTION 5. Chapter 222 is hereby further amended by adding the following 15
37 sections:

38 Section 13. For the purposes of this chapter the following words shall have the
39 following meanings:

40 "Acknowledgment," a notarial act in which an individual, at a single time and place
41 appears, in person, before a notary public and presents a document; is identified by the notary
42 public through satisfactory evidence of identity and who indicates to the notary public that the
43 signature on the document before the notary was voluntarily affixed by the individual for the
44 purposes stated within the document and, if applicable, that the individual was authorized to sign
45 in a particular representative capacity.

46 "Affirmation," a notarial act, or part thereof, that is legally equivalent to an oath and in
47 which an individual, at a single time and place appears, in person, before the notary public is
48 identified by the notary public through satisfactory evidence of identity and who makes a vow of
49 truthfulness or fidelity under the penalties of perjury without invoking a deity.

50 "Copy certification," a notarial act in which a notary public is presented with a
51 document; copies or supervises the copying of the document using a photographic or electronic

52 copying process, compares the original document to the copy and determines that the copy is
53 accurate and complete.

54 "Credible witness," an honest, reliable and impartial person who personally knows an
55 individual appearing before a notary and who takes an oath or affirmation before the notary to
56 vouch for that individual's identity.

57 "Journal of notarial acts" or "journal," a permanently bound book that creates and
58 preserves a chronological record of notarizations performed by a notary public.

59 "Jurat," a notarial act in which an individual, at a single time and place appears, in
60 person, before a notary public and presents a document, is identified by the notary public through
61 satisfactory evidence of identity, signs the document in the presence of the notary public and
62 takes an oath or affirmation before the notary vouching for the truthfulness or accuracy of the
63 signed document.

64 "Notarial act" or "notarization," any act that a notary public is empowered to perform.

65 "Notary public" or "notary," any person commissioned to perform official acts
66 pursuant to Article IV of the Articles of Amendment of the Constitution of the commonwealth.

67 "Oath," a notarial act, or part thereof, that is legally equivalent to an affirmation and in
68 which an individual, at a single time and place, appears in person before a notary, is identified by
69 the notary through satisfactory evidence of identity and takes a vow of truthfulness or fidelity
70 under the penalties of perjury by invoking a deity. "Official misconduct," a violation of
71 sections 14 to 25, inclusive, or any other general or special law in connection with a notarial act

72 or a notary's performance of an official act in a manner found to be grossly negligent or against
73 the public interest.

74 "Personal knowledge of identity," familiarity with an individual resulting from
75 interactions with that individual over a period of time sufficient to ensure beyond doubt that the
76 individual has the identity claimed.

77 "Principal," a person whose signature is notarized or a person taking an oath or
78 affirmation before a notary.

79 "Regular place of work or business," a place where an individual spends a substantial
80 portion of his working or business hours.

81 "Satisfactory evidence of identity," identification of an individual based on: (i) at least
82 1 current document issued by a Federal or state government agency bearing the photographic
83 image of the individual's face and signature; (ii) the oath or affirmation of a credible witness
84 unaffected by the document or transaction who is personally known to the notary and who
85 personally knows the individual; or (iii) identification of an individual based on the notary
86 public's personal knowledge of the identity of the principal. For a person who is not a United
87 States citizen, "satisfactory evidence of identity" shall mean identification of an individual based
88 on a valid passport, or another government-issued document evidencing the individual's
89 nationality or residence and which bears a photographic image of the individual's face and
90 signature.

91 "Signature witnessing," a notarial act in which an individual, at a single time and
92 place, appears, in person, before a notary public and presents a document, is identified by the

93 notary public through satisfactory evidence of identity and signs the document in the presence of
94 the notary public.

95 Section 14. (a) A person qualified for a notary public commission shall be at least 18
96 years of age, reside legally or have a regular place of work or business within the commonwealth
97 and be a United States citizen or have permanent residency status in the United States. (b) In

98 the governor's discretion, an application for appointment, reappointment or renewal of a

99 commission may be denied based on: (i) submission of an official application containing a
100 material misstatement or omission of fact;

101 (ii) the applicant's felony conviction or misdemeanor conviction that resulted
102 in a prison sentence;

103 (iii) the applicant's conviction of a misdemeanor that resulted in a sentence to
104 probation or a fine, or conviction for violating paragraph (a) of subdivision (1) of section 24 of
105 chapter 90 or subsection (a) of section 8 of chapter 90B;

106 (iv) the applicant's admission to sufficient facts to warrant a finding of guilt
107 of any offense;

108 (v) a finding or admission of responsibility or liability against the applicant
109 in a civil action based on the applicant's fraud or deceit;

110 (vi) revocation, suspension, restriction or denial of a notarial commission or
111 professional licensure by this or any other state; or

112 (vii) any other reason, including for official misconduct, that, in the
113 governor's discretion, would render the applicant unsuitable to hold a commission as a notary
114 public.

115 Section 15. A person commissioned as a notary public may perform notarial acts in
116 any part of the commonwealth for a term of 7 years, unless the commission is earlier revoked or
117 the notary resigns. Section 16. (a) A notary public may perform the following notarial acts:
118 acknowledgments; oaths and affirmations; jurats; signature witnessings; copy certifications;
119 issuance of summonses for witnesses as set forth in section 1 of chapter 233; issuance of
120 subpoenas; and witnessing the opening of a bank safe, vault or box as set forth in section 32 of
121 chapter 167.

122 (b) A notary shall take the acknowledgment of the signature or mark of persons
123 acknowledging for themselves or in any representative capacity by using substantially the
124 following form:

125 "On this ____ day of _____, 20__, before me, the undersigned notary public, personally
126 appeared _____ (name of document signer), proved to me through
127 satisfactory evidence of identification, which were _____, to be the person
128 whose name is signed on the preceding or attached document, and acknowledged to me that (he)
129 (she) signed it voluntarily for its stated purpose.

130 (as partner for _____, a partnership)

131 (as _____ for _____, a corporation)

132 (as attorney in fact for _____, the principal)

133 (as _____ for _____, (a) (the) _____)

134 _____ (official signature and seal of notary)”

135 (c) A notary shall use a jurat certificate in substantially the following form in
136 notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

137 “On this ____ day of _____, 20__, before me, the undersigned notary public, personally
138 appeared _____ (name of document signer), proved to me through
139 satisfactory evidence of identification, which were _____, to be the person
140 who signed the preceding or attached document in my presence, and who swore or affirmed to
141 me that the contents of the document are truthful and accurate to the best of (his) (her)
142 knowledge and belief.

143 _____ (official signature and seal of notary)”

144 (d) A notary shall witness a signature in substantially the following form in notarizing
145 a signature or mark to confirm that it was affixed in the notary's presence without administration
146 of an oath or affirmation:

147 “On this ____ day of _____, 20__, before me, the undersigned notary public, personally
148 appeared _____ (name of document signer), proved to me through
149 satisfactory evidence of identification, which were _____, to be the person
150 whose name is signed on the preceding or attached document in my presence.

151 _____ (official signature and seal of notary)”

152 (e) A notary shall certify a copy by using substantially the following form:

153 “On this ____ day of _____, 20 __, I certify that the (preceding) (following) (attached)
154 document is a true, exact, complete, and unaltered copy made by me of _____
155 (description of the document), presented to me by _____.
156 _____ (official signature and seal of notary)”

157 (f) A notary public may certify the affixation of a signature by mark on a document
158 presented for notarization if:

159 (i) the principal affixes the mark in the presence of the notary public and of 2
160 witnesses unaffected by the document;

161 (ii) both witnesses sign their own names beside the mark;

162 (iii) the notary writes below the mark: “Mark affixed by (name of signer by
163 mark) in the presence of (names and addresses of witnesses) and undersigned notary;” and

164 (iv) the notary public notarizes the signature by mark through an
165 acknowledgment, jurat or signature witnessing.

166 (g) A notary public may sign the name of a principal who is physically unable to sign or
167 make a mark on a document presented for notarization if:

168 (i) the principal directs the notary to do so in the presence of 2 witnesses who
169 are unaffected by the document;

170 (ii) the principal does not have a demeanor that causes the notary public to
171 have a compelling doubt about whether the principal knows the consequences of the transaction
172 requiring the notarial act;

173 (iii) in the notary public's judgment, the principal is acting of his own free
174 will;

175 (iv) the notary public signs the principal's name in the presence of the
176 principal and the witnesses;

177 (v) both witnesses sign their own names beside the signature;

178 (vi) the notary public writes below the signature: "Signature affixed by
179 notary public in the presence of (names and addresses of principal and two witnesses)"; and

180 (vii) the notary public notarizes the signature through an acknowledgment,
181 jurat or signature witnessing.

182 (h) This section shall not require a notary public to use the forms set forth above if
183 another form of acknowledgment, jurat, signature witnessing or copy certification is required or
184 allowed by any court rule or court form; any general or special law, including, but not limited to,
185 section 42 of chapter 183, or the forms set forth in the appendix to chapter 183, or section 2 of
186 chapter 192, any Federal statute, or any regulation adopted pursuant to any such provision or
187 law.

188 (i) This section shall not require a notary public to use the forms set forth above if
189 the form of acknowledgment, jurat, signature witnessing or copy certification of a document
190 contains an alternative form from another state if the document is to be filed or recorded in, or
191 governed by the laws of, that other state.

192 (j) This section does not require a notary public to use the forms set forth above if the

193 form of acknowledgment, jurat, signature witnessing, or copy certification appears on a printed
194 form that contains an express prohibition against altering such form.

195 Section 17. (a) A notary public shall not perform a notarial act if:

196 (i) the principal is not in the notary's presence at the time of notarization;

197 (ii) the principal is not identified by the notary through satisfactory evidence
198 of identity;

199 (iii) the principal has a demeanor that causes the notary public to have a
200 compelling doubt about whether the principal knows the consequences of the transaction or
201 document requiring the notarial act;

202 (iv) in the notary public's judgment, the principal is not acting of his own
203 free will;

204 (v) the notary public is a party to or is named in the document that is to be
205 notarized, unless: (A) a notary public is named in a document for the sole purpose of receiving
206 notices relating to the document; or (B) a notary public is licensed as an attorney in the
207 commonwealth, or is employed by an attorney so licensed, and is named as an executor, trustee
208 or in any fiduciary capacity in a document;

209 (vi) the notary public will receive as a direct result of the notarial act any
210 commission, fee, advantage, right, title, interest, cash, property or other consideration exceeding
211 the maximum fees provided in section 24, or has any financial interest in the subject matter of
212 the document; provided, however, that this section shall not preclude a notary public who is
213 licensed as an attorney in the commonwealth, or is employed by an attorney so licensed, from

214 notarial acts relative to any document in connection with which the attorney receives a legal fee
215 for professional legal services.

216 (vii) the notary public is a spouse, domestic partner, parent, guardian, child or
217 sibling of the principal, including in-law, step or half relatives, except if a principal witnesses a
218 will or other legal document prepared by the notary public who is an attorney licensed in the
219 commonwealth.

220 (b) A notary public shall not refuse to perform a notarial act solely based on the
221 principal's race, advanced age, gender, sexual orientation, religion, national origin, health,
222 disability or status as a non-client or non-customer of the notary public or the notary public's
223 employer.

224 (c) A non-attorney notary public shall not influence a person either to enter into or avoid
225 a transaction involving a notarial act by the notary public, except that the notary public may
226 provide assistance relating to that transaction, if he or she is duly qualified, trained, or acting
227 pursuant to a standard or practice recognized in a particular industry or professional field in
228 selecting, drafting or completing a certificate or other document related to a matter within such
229 industry or field.

230 (d) A notary public shall not execute a certificate containing information known or
231 believed by the notary public to be false.

232 (e) A notary public shall not affix an official signature or seal on a notarial certificate that
233 is incomplete. (f) A notary public shall not provide or send a signed or sealed notarial certificate
234 to another person with the understanding that it will be completed or attached to a document
235 outside of the notary public's presence, provided that in connection with a commercial, non-

236 consumer transaction, a notary public may deliver a signed, sealed, or signed and sealed notarial
237 certificate to an attorney with the understanding that: (i) the attorney will attach the certificate to
238 a document outside of the notary's presence; (ii) the attorney will hold such notarial certificate in
239 escrow; and (iii) the attorney informs the notary public that the attorney will obtain the approval
240 of the principal or principals involved before attaching the certificate to the document.

241 (g) A notary public shall not notarize a signature on a blank or incomplete document,
242 except as provided in subsection (f).

243 (h) A notary public shall not perform any official act with the intent to deceive or
244 defraud.

245 (i) A notary public shall not use the term "notario" or "notario publico" or
246 any equivalent non-English term in any business card, advertisement, notice or sign.

247 Section 18. (a) No notary public shall advise clients, offer legal advice or represent or
248 advertise himself or herself as a legal specialist or consultant unless the individual is an attorney
249 licensed to practice law in the commonwealth. No notary public shall state or imply in any
250 communication that he can or will obtain special favors from or has special influence with any
251 government agency. No notary public who is not licensed to practice law in the commonwealth
252 shall make a literal translation of his or her status as "licensed" or as a "notary public" into a
253 language other than English without regard to the true meaning of the word or phrase in that
254 language, or use any other term that implies that the notary public is an attorney so licensed, in
255 any document, including an advertisement, stationery, letterhead, business card, or other written
256 or broadcast material describing the notary public or his services.

257 (b) A notary public who is not an attorney licensed to practice law in the
258 commonwealth:

259 (i) shall not offer legal advice or advise clients as to the immigration status
260 thereof, secure or attempt to secure supporting documents, including, but not limited to, birth
261 certificates, necessary to complete a client's immigration forms or submit completed
262 immigration forms on a client's behalf to any governmental agency;

263 (ii) may translate questions presented on an immigration form for another
264 person and may complete those forms at the explicit direction of such other person only if
265 translation of such other person's answers is necessary; and

266 (iii) prior to providing services of any kind related to an immigration matter,
267 or any matter that that could influence or affect a person's legal status under immigration law,
268 shall provide a client with a written statement that states "I am not an attorney licensed to
269 practice law. I may not give you legal advice or advise you about immigration policies or
270 procedures. You should seek the advice of a qualified attorney to assist you with any legal
271 questions or with questions about legal status under immigration law."

272 (c) The provisions of subsection (b) shall not apply to the following persons:

273 (i) an attorney licensed to practice law in any state or territory of the United
274 States or in any foreign country when authorized by the supreme judicial court, to the extent the
275 attorney renders immigration assistance service in the course of his practice as an attorney.

276 (ii) a paralegal, legal intern or law student employed by an attorney so
277 licensed and rendering immigration assistance in the course of the intern's or student's
278 employment; and

279 (iii) any organization employing or desiring to employ any person not a
280 citizen of the United States, if the organization, its employees or agents provide advice or
281 assistance in immigration-related matters to non-citizen employees or potential employees
282 without compensation from the individuals to whom such advice or assistance is provided.

283 (d) A non-attorney notary public shall not engage in the practice of law. This
284 subsection shall not preclude a notary public who is duly qualified, trained or experienced in a
285 particular industry or professional field from selecting, drafting or completing a certificate or
286 other document related to a matter within that industry or field.

287 (e) A notary public who is not an attorney licensed to practice law in the
288 commonwealth or who is not employed by an attorney so licensed, shall not conduct a real estate
289 closing and shall not act as a real estate closing agent. A notary public who is employed by an
290 attorney so licensed may notarize a document in conjunction with a real estate closing conducted
291 by the attorney. A notary public who is employed by a lender may notarize a document in
292 conjunction with the closing of his employer's real estate loans.

293 (f) This section shall apply to any person who employs, contracts with or otherwise
294 uses the services of a notary public with knowledge or reason to know of conduct that is in
295 violation of this section.

296 Section 18A (a) The attorney general or district attorney may prosecute any person
297 committing a violation under this chapter. Any person convicted of committing such violation

298 shall be punished for a first offense by a fine of not more than \$1,000 or by imprisonment in a
299 jail or house of correction for not more than 6 months, or by both such fine and imprisonment,
300 and for subsequent offenses by a fine of not more than \$5,000 or by imprisonment in a jail or
301 house of correction for not more than one year, or by both such fine and imprisonment. The
302 attorney general or district attorney may file a petition for injunctive relief against any person
303 who violates this chapter. If the attorney general, district attorney or the state secretary has cause
304 to believe that, as a result of official misconduct, a person holding the office of notary public is
305 unsuitable to hold that office, the attorney general, district attorney or the state secretary shall
306 provide notice to the governor of such official misconduct. Any conviction based on a violation
307 of this chapter shall be grounds for the revocation of a notary's appointment. If the court finds
308 that a person so convicted either knew or should have known his conduct to be in violation of
309 this chapter, the court may require such person to pay to the commonwealth a civil penalty of not
310 more than \$5,000 for each such violation and also may require the person to pay the reasonable
311 costs of investigation and litigation of such violation, including reasonable attorneys' fees.

312 (b) A person having an interest or right that is or may be adversely affected by a
313 violation of section 18 may initiate an action for private remedies and, if the attorney general or
314 district attorney has not done so, for injunctive relief. Such person may be awarded actual
315 damages and, if the court finds that person against whom the action is brought either knew or
316 should have known his conduct to be in violation of section 18, punitive damages of not more
317 than \$5,000 per violation, and attorney's fees and court costs.

318 (c) A violation of section 18 shall constitute an unfair or deceptive act or practice
319 pursuant to chapter 93A.

320 (d) It shall not be a defense in an action pursuant to this section that the conduct that is
321 the subject of the action, in whole or in part, occurred primarily or substantially outside the
322 commonwealth.

323 Section 19. (a) Any notary public who is not an attorney shall post signs at his or her
324 place of business, setting forth information in English and in every other language the person
325 provides or offers to provide services. Each language shall be on a separate sign. Signs shall be
326 posted in a conspicuous location where the signs will be visible to customers. Each sign shall be
327 at least 12 inches by 20 inches with boldface type or print that prominently states the following
328 information:

329 (i) The individual's full name and address;

330 (ii) The statement "I am not an attorney licensed to practice law and may not
331 give legal advice or accept fees for legal advice"; and

332 (iii) The statement "I am not accredited to represent you before the United
333 States Bureau of Citizenship and Immigration Services and the Immigration Board of Appeals."

334 (b) Prior to providing services related to an immigration matter, a notary public shall
335 provide the client with written disclosure in English and the client's primary language. The
336 disclosure shall include the notary public's full name, address and telephone number.

337 Section 20. A notary shall perform any notarial act for any person requesting such an
338 act who tenders the fee set forth in section 41 of chapter 262, unless:

339 (i) the notary public knows or has good reason to believe that the notarial act or the
340 associated transaction is unlawful;

341 (ii) the principal has a demeanor that causes the notary public to have a compelling doubt
342 about whether the principal knows the consequences of the transaction or document requiring the
343 notarial act;

344 (iii) the act is prohibited by any provision of this chapter or other applicable law; or

345 (iv) the number of notarial acts requested practicably precludes completion of all acts
346 at once, in which case the notary public shall arrange for later completion of the remaining acts.

347 Section 21. (a) A notary public has neither the duty nor the authority to investigate,
348 ascertain, or attest to the lawfulness, propriety, accuracy, or truthfulness of a document or
349 transaction involving a notarial act. (b) Except as may be required by the office of the state
350 secretary for the issuance of an apostille,

351 (1) Failure of a document to contain the forms of acknowledgment, jurat, signature
352 witnessing, or copy certification set forth in section 16, or otherwise to comply with the
353 requirements set forth in sections 8 through 24 shall not have any effect on the validity of the
354 underlying document, or the recording thereof, and

355 (2) Failure of a document to contain the forms of acknowledgment, jurat, signature
356 witnessing, or copy certification set forth in section 16 shall not be the basis of a refusal to accept
357 the document for filing, recordation, registration, or acceptance by a third party.

358 Section 22. A non-attorney notary public who advertises notarial services in a language
359 other than English shall include in the advertisement, notice, letterhead, or sign the following,
360 prominently displayed in the same language the statement: "I am not an attorney and have no
361 authority to give advice on immigration or other legal matters."

362 Section 23. (a) A notary who is not employed by a governmental entity shall keep,
363 maintain, protect, and provide for lawful inspection a chronological official journal of notarial
364 acts that is a permanently bound book with numbered pages, except as otherwise provided in this
365 section.

366 (b) A notary public shall keep no more than one active journal at the same time.

367 (c) For every notarial act except for the issuance of summons or subpoenas, or the
368 administration of an oral oath, the notary public shall record in the journal at the time of the
369 notarization the following:

370 (1) the date and time of the notarial act, proceeding, or transaction;

371 (2) the type of notarial act;

372 (3) the type, title, or a description of the document, transaction or
373 proceeding. If multiple documents are signed by the same principal in the course of a transaction
374 or during a single date, a single journal entry shall be sufficient;

375 (4) the signature, printed name, and address of each principal and witness,
376 except that if a principal or witness tells the notary that he or she is a battered person, the notary
377 shall make a note in the journal that the person's address shall not to be subject to public
378 inspection, and

379 (5) description of the satisfactory evidence of identity of each person
380 including:

381 (i) a notation of the type of identification document, the issuing
382 agency, its serial or identification number, and its date of issuance or expiration, provided that if
383 the identification number on the document is the person's Social Security number, instead of
384 including the number, the notary shall write in the words "Social Security number" or the
385 acronym "SSN"; or

386 (ii) a notation if the notary identified the individual on the oath or
387 affirmation of a credible witness or based on the notary's personal knowledge of the individual;

388 (iii) the fee, if any, charged for the notarial act, and

389 (iv) the address where the notarization was performed.

390 (d) A notary public shall not record a Social Security or credit card number in the
391 journal.

392 (e) A notary public shall record in the journal the reason for not completing a notarial
393 act requested by a principal.

394 (f) A journal shall not be required for a notary public who is an attorney admitted to
395 practice law in any jurisdiction or who is employed by such attorney. If such attorney or person
396 so employed elects to maintain such journal, the provisions of this section shall not be construed
397 in any way to impair or infringe on the attorney-client privilege or the attorney work product
398 doctrine.

399 (g) Except as provided in subsection (f), a journal may be examined without restriction
400 by a law enforcement officer in the course of an official investigation, subpoenaed by court

401 order, or surrendered at the direction of the secretary of the commonwealth. Nothing in this
402 section shall prevent a notary public from seeking appropriate judicial protective orders.

403 (h) A notary public shall maintain and safeguard a journal and all other notarial records
404 and shall surrender or destroy them only as directed by law, court order, regulation or at the
405 direction of the state secretary.

406 (i) When not in use, a journal shall be kept in a secure area under the exclusive control of
407 the notary public, and shall not be used by any other notary nor surrendered to an employer upon
408 termination of employment.

409 Section 24. Fees charged by a notary public for the following services shall not exceed the
410 amounts specified herein until July 1, 2012, after which time maximum fees shall be set by the
411 secretary of the commonwealth:

412 (i) For taking an acknowledgment or proof of a deed, or other instrument, to
413 include the seal and the writing of the certificate, the sum of \$10 for each signature taken.

414 (ii) For administering an oath or affirmation to one person and executing the
415 jurat, including the seal, the sum of \$10.

416 (iii) For all services rendered in connection with the taking of any deposition,
417 the sum of \$20, and in addition thereto, the sum of \$5 for administering the oath to the witness
418 and the sum of \$5 for the certificate to the deposition.

419 (iv) For every protest for the nonpayment of a promissory note or for the
420 nonpayment or non- acceptance of a bill of exchange, draft, or check, the sum of \$10.

421 (v) For serving every notice of nonpayment of a promissory note or of
422 nonpayment or non-acceptance of a bill of exchange, order, draft, or check, the sum of \$5.

423 (vi) For recording every protest, the sum of \$5.

424 (vii) For certifying a copy of a power of attorney under chapter 201B, the
425 sum of \$10.

426 No fee may be charged to notarize signatures on absentee ballot identification envelopes or other
427 voting materials.

428 No fee may be charged to a United States military veteran for notarization of an application or a
429 claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's
430 benefit.

431 Section 25. When a notary commission expires, is resigned, or is revoked, the notary
432 shall as soon as reasonably practicable, destroy or deface all notary seals and stamps so that they
433 may not be used, and shall retain the notarial journal and records for 7 years after the date of
434 expiration, resignation, or revocation.

435 Section 26. Within 10 days after the change of a notary public's residence, business or
436 mailing address, or name, the notary shall send to the state secretary signed notice of the change,
437 providing both the old and new information.

438 Section 27. A notary public's commission may be revoked for official misconduct as
439 defined in section 13, or for other good cause, as determined by the Governor with the consent of
440 the Governor's Council as set forth in Article XXXVII of the Articles of Amendments to the
441 Massachusetts Constitution.

442 SECTION 6. Chapter 262 of the General Laws is hereby amended by striking
443 section 41 and inserting in place thereof the following section:

444 Section 41. The maximum fees of notaries public shall be as provided in section 24 of
445 chapter 222.

446 SECTION 7. This act shall apply to all commissions of notary public or justice
447 of the peace authorized by chapter 222 of the General Laws, including commissions received or
448 renewed before the effective date of this act.