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## HOUSE BILL NO. 163

Offered January 14, 2026

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**A BILL to amend and reenact §§ 17.1-258.3:1, 47.1-2, 47.1-5, 47.1-5.1, 47.1-8, 47.1-11, 47.1-14, 55.1-618, 55.1-620, and 55.1-903 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 47.1-5.2 and 47.1-8.1, relating to notarization, filing, and recordation of certain land records; duties of notary or settlement agent; acknowledgement and satisfactory evidence of identity; requirements for commission or recommission of notary; clerk of circuit court to establish property alert notification system.**

Patron—Simon

## Committee Referral Pending

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 17.1-258.3:1, 47.1-2, 47.1-5, 47.1-5.1, 47.1-8, 47.1-11, 47.1-14, 55.1-618, 55.1-620, and 55.1-903 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 47.1-5.2 and 47.1-8.1 as follows:

## § 17.1-258.3:1. Electronic filing of land records; paper form.

A. A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the provisions of Article 3 (§ 55.1-346 et seq.) of Chapter 3 of Title 55.1 regarding the satisfaction of mortgages and the Uniform Real Property Electronic Recording Act (§ 55.1-661 et seq.). The clerk may require each filer to provide proof of identity to the clerk. The clerk shall enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein. Further, nothing herein shall be construed to require the electronic filing of any land record, and such records may continue to be filed in paper form.

B. Any clerk of a circuit court with an electronic filing system established in accordance with this section may charge a fee not to exceed \$5 per instrument for every land record filed by paper. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used exclusively to cover the operational expenses as defined in § 17.1-295.

C. The clerk shall maintain a disaster plan, as defined in § 42.1-77, for recovery of any land record in possession of the clerk that is maintained as an electronic record.

*D. Any clerk of a circuit court with a network or system for electronic filing of land records established in accordance with this section shall also establish a property alert notification system that allows the owner of real property to enroll such real property in the property alert notification system at no cost to the owner, provided that the land records for such real property are filed in such circuit court as required by law. Upon enrolling in the property alert notification system, the owner of real property may elect to receive notifications either electronically or by mail.*

*E. A property alert notification system established pursuant to this section shall (i) notify the enrolled owner when any document describing, affecting, or purporting to affect the enrolled real property is filed and (ii) include in the notification a description of the nature of the document recorded, the address or tax identification number of the subject real property, and the recording information of the document.*

*F. The clerk of a circuit court shall be immune from civil liability and no person shall have a civil cause of action against the clerk of a circuit court for any act or omission relating to the establishment, maintenance, or operation of a property alert notification system established pursuant to this section.*

*G. Any clerk of a circuit court with a system or network for electronic filing of land records and a property alert notification system established pursuant to this section, in conjunction with the locality in which the circuit court sits, shall provide property owners with (i) educational information on real estate and deed fraud and (ii) information about the property alert notification system available in such jurisdiction. Such information may be provided by mail, by newspaper, on the court's or the locality's website, or other available media.*

## § 47.1-2. Definitions.

As used in this title, unless the context demands a different meaning:

"Acknowledgment" means a notarial act in which an individual at a single time and place (i) appears in person before the notary and presents a document; (ii) is personally known to the notary or identified by the notary through satisfactory evidence of identity; and (iii) indicates to the notary that the signature on the

59 document was voluntarily affixed by the individual for the purposes stated within the document and, if  
60 applicable, that the individual had due authority to sign in a particular representative capacity.

61 "Affirmation" means a notarial act, or part thereof, that is legally equivalent to an oath and in which an  
62 individual at a single time and place (i) appears in person before the notary and presents a document; (ii) is  
63 personally known to the notary or identified by the notary through satisfactory evidence of identity; and (iii)  
64 makes a vow of truthfulness or fidelity on penalty of perjury.

65 "Commissioned notary public" means that the applicant has completed and submitted the registration  
66 forms along with the appropriate fee to the Secretary of the Commonwealth and the Secretary of the  
67 Commonwealth has determined that the applicant meets the qualifications to be a notary public and issues a  
68 notary commission and forwards same to the clerk of the circuit court, pursuant to this chapter.

69 "Copy certification" means a notarial act in which a notary (i) is presented with a document that is not a  
70 public record; (ii) copies or supervises the copying of the document using a photographic or electronic  
71 copying process; (iii) compares the document to the copy; and (iv) determines that the copy is accurate and  
72 complete.

73 "Credential analysis" means a process or service that independently affirms the veracity of a  
74 government-issued identity credential by reviewing public or proprietary data sources and meets the  
75 standards of the Secretary of the Commonwealth.

76 "Credible witness" means an honest, reliable, and impartial person who personally knows an individual  
77 appearing before a notary and takes an oath or affirmation from the notary to confirm that individual's  
78 identity.

79 "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or  
80 other medium and is retrievable in perceivable form, including a record as defined in the Uniform Electronic  
81 Transactions Act (§ 59.1-479 et seq.).

82 "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical,  
83 electromagnetic, or similar capabilities.

84 "Electronic document" means information that is created, generated, sent, communicated, received, or  
85 stored by electronic means.

86 "Electronic notarial act" or "electronic notarization" means an official act by a notary under § 47.1-12 or  
87 as otherwise authorized by law that involves electronic documents.

88 "Electronic notarial certificate" means the portion of a notarized electronic document that is completed by  
89 the notary public, bears the notary public's signature, title, commission expiration date, and other required  
90 information concerning the date and place of the electronic notarization, and states the facts attested to or  
91 certified by the notary public in a particular notarization. The "electronic notarial certificate" shall indicate  
92 whether the notarization was done in person or by remote online notarization.

93 "Electronic notary public" or "electronic notary" means a notary public who has been commissioned by  
94 the Secretary of the Commonwealth with the capability of performing electronic notarial acts under § 47.1-7.

95 "Electronic notary seal" or "electronic seal" means information within a notarized electronic document  
96 that confirms the notary's name, jurisdiction, and commission expiration date and generally corresponds to  
97 data in notary seals used on paper documents.

98 "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated  
99 with an electronic document and executed or adopted by a person with the intent to sign the document.

100 "Identity proofing" means a process or service that independently verifies an individual's identity in  
101 accordance with § 2.2-436.

102 "Knowledge-based authentication assessment" means an identity assessment formulated from public or  
103 private data sources for which the principal has not provided a prior answer that meets the following  
104 requirements:

105 1. The principal shall answer a quiz composed of at least five questions related to the principal's personal  
106 history or identity;

107 2. At least five possible answer choices shall be available for each question;  
108 3. The principal shall pass the quiz if he achieves a score of 80 percent or higher;  
109 4. The principal shall have two minutes to answer the questions on the quiz;  
110 5. If the principal fails to achieve a score of at least 80 percent, the principal may attempt up to two  
111 additional quizzes within 48 hours following the first failed quiz; and  
112 6. No more than 60 percent of the questions from the initial quiz can be reused on additional quizzes.

113 "Notarial act" or "notarization" means any official act performed by a notary under § 47.1-12 or 47.1-13  
114 or as otherwise authorized by law.

115 "Notarial certificate" or "certificate" means the part of, or attachment to, a notarized document that is  
116 completed by the notary public, bears the notary public's signature, title, commission expiration date, notary  
117 registration number, and other required information concerning the date and place of the notarization and  
118 states the facts attested to or certified by the notary public in a particular notarization.

119 "Notary public" or "notary" means any person commissioned to perform official acts under the title, and  
120 includes an electronic notary except where expressly provided otherwise.

121 "Oath" shall include "affirmation."

122 "Official misconduct" means any violation of this title by a notary, whether committed knowingly,  
123 willfully, recklessly or negligently.

124 "Personal knowledge of identity" or "personally knows" means familiarity with an individual resulting  
125 from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that  
126 the individual has the identity claimed.

127 "Principal" means (i) a person whose signature is notarized or (ii) a person, other than a credible witness,  
128 taking an oath or affirmation from the notary.

129 "Record of notarial acts" means a device for creating and preserving a chronological record of  
130 notarizations performed by a notary.

131 "Remote online notarization" means an electronic notarization under this chapter where the signer is not  
132 in the physical presence of the notary.

133 "Satisfactory evidence of identity" means identification of an individual based on (i) examination of one  
134 or more of the following unexpired documents bearing a photographic image of the individual's face and  
135 signature: a United States Passport Book, a United States Passport Card, a certificate of United States  
136 citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a  
137 state issued driver's license or a state issued identification card or a United States military card or (ii) the oath  
138 or affirmation of one credible witness unaffected by the document or transaction who is personally known to  
139 the notary and who personally knows the individual or of two credible witnesses unaffected by the document  
140 or transaction who each personally knows the individual and shows to the notary documentary identification  
141 as described in clause (i). In the case of an individual who resides in an assisted living facility, as defined in  
142 § 63.2-100, or a nursing home, licensed by the State Department of Health pursuant to Article 1 (§ 32.1-123  
143 et seq.) of Chapter 5 of Title 32.1 or exempt from licensure pursuant to § 32.1-124, an expired United States  
144 Passport Book, expired United States Passport Card, expired foreign passport, or expired state issued driver's  
145 license or state issued identification card may also be used for identification of such individual, provided that  
146 the expiration of such document occurred within five years of the date of use for identification purposes  
147 pursuant to this title. In the case of an electronic notarization, "satisfactory evidence of identity" may be  
148 based on video and audio conference technology, in accordance with the standards for electronic video and  
149 audio communications set out in subdivisions B 1, 2, and 3 of § 19.2-3.1, that permits the notary to  
150 communicate with and identify the principal at the time of the notarial act, provided that such identification is  
151 confirmed by (a) personal knowledge, (b) an oath or affirmation of a credible witness who personally knows  
152 the principal and is either personally known to the notary or is identified pursuant to clause (e), (b) or (e) (b)  
153 is identified by at least two of the following: (1) credential analysis of an unexpired government-issued  
154 identification bearing a photograph of the principal's face and signature; (2) identity proofing by an  
155 antecedent in-person identity proofing process in accordance with the specifications of the Federal Bridge  
156 Certification Authority, including any supplements thereto or revisions thereof; (3) another identity proofing  
157 method authorized in guidance documents, regulations, or standards adopted pursuant to § 2.2-436; (4) a  
158 valid digital certificate accessed by biometric data or by use of an interoperable Personal Identity Verification  
159 card that is designed, issued, and managed in accordance with the specifications published by the National  
160 Institute of Standards and Technology in Federal Information Processing Standards Publication 201-1,  
161 "Personal Identity Verification (PIV) of Federal Employees and Contractors," and supplements thereto or  
162 revisions thereof, including the specifications published by the Federal Chief Information Officers Council in  
163 "Personal Identity Verification Interoperability for Non-Federal Issuers"; or (5) a knowledge-based  
164 authentication assessment.

165 "Seal" means a device for affixing on a paper document an image containing the notary's name and other  
166 information related to the notary's commission.

167 "Secretary" means the Secretary of the Commonwealth.

168 "State" includes any state, territory, or possession of the United States.

169 "Verification of fact" means a notarial act in which a notary reviews public or vital records to (i) ascertain  
170 or confirm facts regarding a person's identity, identifying attributes, or authorization to access a building,  
171 database, document, network, or physical site or (ii) validate an identity credential on which satisfactory  
172 evidence of identity may be based.

#### 173 § 47.1-5. Application.

174 No person shall be commissioned as a notary public or electronic notary public pursuant to this title until  
175 he submits (i) an application fee as set forth in § 2.2-409 and; (ii) a complete and correct application to the  
176 Secretary of the Commonwealth, in a form prescribed by the Secretary, which shall include the oath of the  
177 applicant, signed and sworn before some officer authorized by law to administer oaths, that the answers to all  
178 questions on the application are true and complete to the best of his knowledge and that he is qualified to be  
179 appointed and commissioned as a notary public; and (iii) proof that he has completed the required course of  
180 instruction for a person applying for a commission in accordance with subsection A of § 47.1-5.2. The  
181 Secretary may accept applications by electronic means.

182 Any application fee shall be waived for an application filed by a clerk or deputy clerk of a circuit or

183 district court.

184 **§ 47.1-5.1. Application for recommission.**

185 Persons already commissioned as notaries public or electronic notaries public pursuant to this title and  
186 who are submitting application for recommission as a notary or electronic notary may submit applications to  
187 the Secretary in person, by first-class mail, or online, provided online applications contain electronic  
188 signatures, authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). No person applying  
189 for recommission shall be required to include (i) the oath of the applicant required for commission by  
190 § 47.1-5, provided that such applicant is in good standing as a notary public or electronic notary public, is not  
191 subject to any investigation or proceeding, and has never been removed from office pursuant to Chapter 5  
192 (§ 47.1-24 et seq.) and (ii) *proof that he has completed the required course of instruction for a notary or*  
193 *electronic notary applying for recommission in accordance with subsection B of § 47.1-5.2.*

194 **§ 47.1-5.2. Course of instruction and examination; requirements for commission and recommission.**

195 *A. Within the six months immediately preceding a person's submission of an application to be*  
196 *commissioned as a notary public or electronic notary public pursuant to § 47.1-5, such person shall take a*  
197 *course of instruction developed and approved by the Secretary on notarial laws, best practices and*  
198 *procedures for notaries, and verification of identity, and shall complete a written examination to the*  
199 *satisfaction of the Secretary. Such course of instruction shall be four hours in total, one hour of which shall*  
200 *be on the topic of real estate fraud and financial exploitation of elderly persons, including training on current*  
201 *trends and recognizing instances of suspected fraud or financial exploitation.*

202 *B. Within the six months immediately preceding the submission of an application for recommission, a*  
203 *notary public or an electronic notary public shall complete a course of instruction consistent with the*  
204 *provisions of subsection A, except that such course of instruction for a notary public or electronic notary*  
205 *public applying for recommission shall be two hours in total, one of which shall be on the topic of real estate*  
206 *fraud and financial exploitation of elderly persons, including training on current trends and recognizing*  
207 *instances of suspected fraud or financial exploitation. A notary public or electronic notary public shall*  
208 *complete the course of instruction as required by this subsection each time such notary public or electronic*  
209 *notary public applies for recommission.*

210 *Upon the completion of a course of instruction, an applicant shall be provided with written*  
211 *documentation of such completion that may serve as the proof required by §§ 47.1-5 and 47.1-5.1 that the*  
212 *applicable provisions of this section have been met.*

213 **§ 47.1-8. Commission to be issued, etc.**

214 Upon receipt of a completed application and, the correct fee, and proof that the requirements of § 47.1-5.2  
215 have been met, the Secretary, if satisfied the applicant is qualified to be registered and commissioned as a  
216 notary public or electronic notary public, shall prepare a notary commission for the applicant which shall  
217 include a registration number and forward the commission for a notary public or electronic notary public to  
218 the clerk of the circuit court in which the applicant shall elect to qualify. The Secretary shall thereupon notify  
219 the applicant that the commission has been granted and where and how it may be secured. An electronic  
220 notary public may act as a notary public in all respects upon being commissioned as an electronic notary  
221 public.

222 **§ 47.1-8.1. Proof required to obtain seal.**

223 *Once a notary public has been granted the commission by the Secretary, such notary public shall present*  
224 *proof of his commission to a vendor or manufacturer for purposes of obtaining a seal to affix on paper*  
225 *documents as required by the provisions of this title. The notary public and vendor or manufacturer shall*  
226 *retain such proof of commission for no less than four years.*

227 **§ 47.1-11. Reference materials.**

228 The Secretary shall prepare, from time to time, reference materials for notaries public and electronic  
229 notaries public which shall contain the provisions of this title and such other information as the Secretary  
230 shall deem useful, *including updates and trends relating to real estate fraud and financial exploitation of*  
231 *elderly persons.* Copies of the reference materials shall be made available to persons seeking appointment as  
232 notaries public and electronic notaries public as well as to other interested persons. The Secretary may make  
233 the materials available in digital format but shall provide written copies of the materials upon request.

234 **§ 47.1-14. Duty of care.**

235 A. A notary shall exercise reasonable care in the performance of his duties generally. He shall exercise a  
236 high degree of care in ascertaining the identity of any person whose identity is the subject of a notarial or  
237 electronic notarial act.

238 **B. Unless** *The identity of such person is personally known by the notary, identity* shall be ascertained upon  
239 presentation of satisfactory evidence of identity as defined in this title.

240 **C. B.** *A notary performing notarial acts or an electronic notary performing electronic notarial acts shall*  
241 *keep, maintain, protect, and provide for lawful inspection a record of notarial acts, or, in the case of an*  
242 *electronic notary, an electronic record of notarial acts, that contains at least the following for each notarial act*  
243 *performed: (i) the date and time of day of the notarial act; (ii) the type of notarial act; (iii) the type, title, or a*  
244 *description of the document or proceeding; (iv) the printed name and address of each principal; (v) the*

245 evidence of identity of each principal in the form of either a statement that the person is personally known to  
246 the notary, a notation of the type of identification document, which may be a copy of the driver's license or  
247 other photographic image of the individual's face, or the printed name and address of each credible witness  
248 swearing or affirming to the person's identity, and, for any credible witnesses who are not personally known  
249 to the notary or electronic notary, a description of the type of identification documents relied on by the notary  
250 or electronic notary; and (vi) the fee, if any, charged for the notarial act or electronic notarial act. If, in the  
251 case of an electronic notary, video and audio conference technology authorized under § 47.1-2 is the basis for  
252 satisfactory evidence of identity and the principal's identity has been ascertained upon presentation of such  
253 satisfactory evidence of identity, the electronic notary shall keep a copy of the recording of the video and  
254 audio conference and a notation of the type of any other identification used. The electronic notary shall take  
255 reasonable steps to (a) ensure the integrity, security, and authenticity of electronic notarizations, (b) maintain  
256 a backup for his electronic record of notarial acts, and (c) ensure protection of such backup records from  
257 unauthorized use.

258 C. The record of any non-electronic notarial act performed on or after July 1, 2026, shall be maintained  
259 for a period of at least five years from the date of the transaction. The electronic record of an electronic  
260 notarial act shall be maintained for a period of at least five years from the date of the transaction.

261 D. A notary performing electronic notarial acts shall take reasonable steps to ensure that any registered  
262 device used to create an electronic signature is current and has not been revoked or terminated by its issuing  
263 or registering authority.

264 E. A notary performing electronic notarial acts shall keep his record, electronic signature, and physical  
265 and electronic seals secure under his exclusive control and shall not allow them to be used by any other  
266 notary or any other person.

267 F. A notary performing electronic notarial acts shall use the notary's electronic signature only for the  
268 purpose of performing electronic notarial acts.

269 G. A notary performing electronic notarial acts, immediately upon discovering that the notary's record,  
270 electronic signature, or physical or electronic seal has been lost, stolen, or may be otherwise used by a person  
271 other than the notary, shall (i) inform the appropriate law-enforcement agency in the case of theft or  
272 vandalism and (ii) notify the Secretary in writing and signed in the official name in which he was  
273 commissioned.

274 **§ 55.1-618. What person taking acknowledgment shall certify.**

275 The person taking an acknowledgment shall certify that:

276 1. The person acknowledging appeared before him and acknowledged he executed the instrument; and

277 2. The person acknowledging was known to the person taking the acknowledgment or that the person  
278 taking the acknowledgment had satisfactory evidence that the person acknowledging was the person  
279 described in and who executed the instrument.

280 **§ 55.1-620. Meaning of "acknowledged before me."**

281 For the purposes of this article, "acknowledged before me" means:

282 1. That the person acknowledging appeared before the person taking the acknowledgment;

283 2. That the person acknowledging acknowledged he executed the instrument;

284 3. That, in the case of:

285 a. A natural person acknowledging, he executed the instrument for the purposes stated in the instrument;

286 b. A corporation, the officer or agent acknowledging he held the position or title set forth in the instrument  
287 and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument  
288 was the act of the corporation for the purpose stated in the instrument;

289 c. A partnership, the partner or agent acknowledging he signed the instrument on behalf of the partnership  
290 by proper authority and he executed the instrument as the act of the partnership for the purposes stated in the  
291 instrument;

292 d. A person acknowledging as principal by an attorney-in-fact, he executed the instrument by proper  
293 authority as the act of the principal for the purposes stated in the instrument; or

294 e. A person acknowledging as a public officer, trustee, administrator, guardian, conservator, or other  
295 representative, he signed the instrument by proper authority and he executed the instrument in the capacity  
296 and for the purposes stated in the instrument; and

297 4. That the person taking the acknowledgment either knew or had satisfactory evidence that the person  
298 acknowledging was the person named in the instrument or certificate.

299 **§ 55.1-903. Duty of settlement agent.**

300 A. Prior to settlement, the settlement agent shall exercise ordinary care to reasonably ascertain the  
301 identity of a seller of real property. Methods of exercising such ordinary care may include (i) obtaining  
302 satisfactory evidence of identity as defined in § 47.1-2; (ii) requiring multiple forms of photo identification;  
303 (iii) performing a title search; (iv) reviewing land records for the subject property; (v) comparing signatures;  
304 (vi) performing a credit check; or (vii) asking detailed questions about the subject property.

305 B. The settlement agent shall cause recordation of the deed, the deed of trust, or the mortgage or other  
306 documents required to be recorded and shall cause disbursement of settlement proceeds within two business

307 days of settlement. A settlement agent may not disburse any or all loan funds or other funds coming into its  
308 possession prior to the recordation of any instrument except (i) funds received that are overpayments to be  
309 returned to the provider of such funds, (ii) funds necessary to effect the recordation of instruments, or (iii)  
310 funds that the provider has by separate written instrument directed to be disbursed prior to recordation of any  
311 instrument. Additionally, in any transaction involving the purchase or sale of an interest in residential real  
312 property, the settlement agent shall provide notification to the purchaser of the availability of owner's title  
313 insurance as required under § 38.2-4616.

314 *C. A settlement agent who uses any of the methods to reasonably ascertain the identity of a seller of real  
315 property described in subsection A shall not be liable for any act or omission resulting from his reliance on  
316 such information when moving forward with a settlement and recordation of the deed, deed of trust, or  
317 mortgage or other documents required to be recorded pursuant to the settlement, provided that the (i)  
318 settlement agent did not have actual knowledge that the information provided was false or (ii) act or omission  
319 was not a result of the settlement agent's gross negligence or willful misconduct.*

320 **2. That the provisions of § 47.1-5.2, as created by this act, shall become effective on July 1, 2027, and  
321 that the Secretary of the Commonwealth shall develop the curricula for courses of instruction for  
322 notaries and electronic notaries as required by the provisions of § 47.1-5.2, as created by this act, by  
323 January 1, 2027.**

324 **3. That the provisions of §§ 17.1-258.3:1, 47.1-5, 47.1-5.1, and 47.1-8, as amended by this act, shall  
325 become effective on July 1, 2027.**