New Virginia Notary & Settlement Agent Requirements (2026-2027)

Description

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Over the last decade, deed fraud (fraudulently stolen real estate) has increased nationwide, resulting in millions of dollars of loss for property owners.

Prior to the 2025_26 Virginia General Assembly, the Virginia Housing Development Authority was granted authority to research the issue of deed fraud in Virginia. A team of experts from every segment of the industry gathered to provide input and recommendations regarding methods that could block the ease with which â??bad actorsâ?• could fraudulently gain ownership and subsequently sell real estate.

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The ultimate â??seal of approvalâ?• remains the notarial act that lends credibility to the transaction.

For settlement agents who also serve as Virginia notaries, the following are key updates regarding journal requirements (effective July 1, 2026), identity verification, and new mandatory training requirements (effective July 1, 2027). Guidance on mandatory training specifics will be forthcoming from the VA Secretary of the Commonwealth (SoC) Notary Division.

The 2026 â??Journal Ruleâ?•

Effective July 1, 2026, journals will be officially required for all notarial acts. Journals must be retained for a full five-year period. VA Code Â§ 47.1-14. Duty of care

- **What to Record**: You must record the specific form of â??satisfactory evidenceâ?• used to identify both the principal and any signatory / credible witnesses.
- **ID Methods**: â??personally knownâ?• and antecedent proofing remain admissible forms of ID verification.
- **Pro-Tip**: Using an electronic journal for traditional paper-based acts is not prohibited.

Proper identification and recordkeeping remain some of the most important components of every notarial act, particularly as fraud prevention efforts continue to expand throughout the real estate industry.

Key Reminder: Virginia law limits acceptable identification to a specific list of approved IDs. Become familiar with this specific list to ensure every journal entry is valid.

(VA Notary Handbook Final_5.16.2025(4).pdf, Pg 9)

â??Unless such person is known by the notary, identity shall be ascertained by examination of one or more of the following nine unexpired documents:

- A United States passport or passport card
- A certificate of United States citizenship
- A certificate of naturalization
- A foreign passport
- A United States green card with photograph
- A state issued driverâ??s license or identification card
- A United States military identification card. *Federal law prohibits unauthorized copying or scanning of military IDs.*

Bear in mind that your Notarial Journal may be subpoenaed if a notarial act is ever contested. No matter who purchased it for you â?? maintain ownership and possession of your personal journal and seal.

Real Estate & Settlement Agent Duties

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The new legislation places a higher burden of â??ordinary careâ?• on settlement agents to verify the identity of property sellers.

- **Verification Methods**: Meet this requirement by obtaining satisfactory ID, requiring multiple photo IDs and comparing signatures. Additional measures: performing credit checks or property-specific questioning.
- **Liability Protection**: Settlement agents following these methods with no actual knowledge of fraud (with no evident gross negligence), have a measure of protection from liability regarding identity omissions.

The legislation also serves as an important reminder that traditional notarial procedures must still be followed.

Place the Signer under Oath if a Jurat is required.

Remember to place the signer under oath or affirmation when performing a jurat.

Not all signers are comfortable swearing an oath to a religious entity. Virginia allows the alternate use of an affirmation.

Suggested wording:

â??I will need to perform an oath. You may answer with either â??I swearâ?? or â??I affirm.â??

Do you (name of signer) swear or affirm under penalty of perjury that the statements in this document are true to the best of your knowledge and belief?â?•

Failure to administer an oath or affirmation may result in a defective jurat. This can lead to affidavits or sworn statements being challenged or rejected by courts or agencies, and may expose the notary to allegations of negligence or misconduct.

Credible Witness Refresher

Settlement professionals handling remote transactions or difficult identification scenarios should also remain familiar with Virginiaâ??s credible witness requirements. Virginiaâ??s credible witness requirements differ depending on whether the notarization is performed traditionally or through Remote Online Notarization (RON):

Traditional:

- If the notary personally knows the credible witness, one credible witness is sufficient.
- If the notary does not personally know the credible witness, two credible witnesses are required.

RON:

- One credible witness may be used for remote transactions in accordance with Virginia law and applicable identity verification requirements.

RECOMMENDATION: Request that your credible witness is a U.S. citizen. Potentially, in cases of fraud, the non-citizen could be monetarily involved and the credible witness could flee abroad to a country we cannot extradite from.

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New Mandatory Training (2027)

Effective July 1, 2027, all new and renewing Notaries (Traditional and Electronic) must complete a course approved by the SoC within six months prior to their application.

- The â??Fraud Hourâ?•: One hour of this training must focus specifically on real estate fraud and financial exploitation of the elderly, including how to recognize current trends in these crimes.

Obtaining Your Seal

Notary seal vendors will be required to obtain proof of your commission. Both you and the vendor are now required to retain that proof of commission for at least five years.

As these changes move toward implementation, settlement agents, title professionals, and notaries should begin reviewing their office procedures, identity verification practices, and training protocols to ensure compliance with Virginiaâ??s updated requirements. These changes reflect the Commonwealthâ??s continued focus on fraud prevention, consumer protection, and strengthening confidence in real estate transactions.



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