

HOUSE No. 4716

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 21, 2022.

The committee on The Judiciary to whom was referred the petition (accompanied by bill, House, No. 1602) of Carmine Lawrence Gentile relative to regulating notarization to allow for electronic notaries, a petition (accompanied by bill, Senate, No. 1067) of Eric P. Lesser, Brian M. Ashe, Kelly W. Pease and Joanne M. Comerford for legislation to establish a commission on electronic notarization, a petition (accompanied by bill, House, No. 493) of Richard M. Haggerty, Christopher Hendricks and Kate Lipper-Garabedian for legislation to further regulate virtual notarization, and a petition (accompanied by bill, House, No. 1601) of Carmine Lawrence Gentile for legislation to establish a commission (including members of the General Court) on electronic notarization, reports recommending that the accompanying bill (House, No. 4716) ought to pass.

For the committee,

MICHAEL S. DAY.

HOUSE No. 4716

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act modernizing notary services.

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, as appearing in the 2020 Official
2 Edition, is hereby amended by striking out section 1 in its entirety and inserting in place thereof
3 the following section:-

4 Section 1. For the purposes of this chapter, the following words shall have the following
5 meanings, unless the context clearly requires otherwise:

6 "Acknowledgment", a notarial act in which an individual, at a single time appears in
7 person before a notary public, is identified by the notary public through satisfactory evidence of
8 identity and presents a document or electronic record to the notary public and indicates to the
9 notary public that the signature on the document or record before the notary was voluntarily
10 affixed by the individual for the purposes stated within the document or electronic record or that
11 the signature on the document or electronic record was the individual's free act and deed and, if
12 applicable, that the individual was authorized to sign in a particular representative capacity.

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

17 "Appears in person", "appears personally", or "personally appears", being in the same
18 physical location as another individual and close enough to see, hear, communicate with, and
19 exchange tangible identification credentials with that individual; or interacting with a remotely
20 located individual by means of communication technology in compliance with section 28 of this
21 chapter.

22 "Communication technology", an electronic device or process that allows a notary public
23 and a remotely located individual to communicate with each other simultaneously by sight and
24 sound, and when necessary and consistent with other applicable law, facilitates communication
25 with a remotely located individual with a vision, hearing, or speech impairment.

26 "Copy certification", a notarial act in which a notary public is presented with a document
27 that the notary public copies, or supervises the copying thereof, by a photographic or electronic
28 copying process, compares the original document to the copy and determines that the copy is
29 accurate and complete.

30 "Credential analysis", a process or service that meets guidelines established by the
31 Secretary, through which a third person affirms the validity of a current government-issued
32 identification credential by review of public and proprietary data sources.

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

36 "Dynamic knowledge-based authentication", a form of identity proofing based on a set of
37 questions which pertain to an individual and are formulated from public or proprietary data
38 sources.

39 "Electronic", relating to technology having electrical, digital, magnetic, wireless, optical,
40 electromagnetic, or similar capabilities.

41 "Electronic record", information that is created, generated, sent, communicated, received,
42 or stored by electronic means.

43 "Electronic signature", an electronic sound, symbol, or process, attached to or logically
44 associated with a contract or other record and executed or adopted by a person with the intent to
45 sign the record.

46 "Foreign state", a jurisdiction other than the United States, a state, or a federally
47 recognized Indian tribe.

48 "Identity proofing", a process or service that meets the guidelines established by the
49 Secretary, by which a third person provides a notary public with a means to verify the identity of
50 a remotely located individual by a review of personal information from public or private data
51 sources, which may include credential analysis, dynamic knowledge-based authentication,
52 analysis of biometric data such as, but not limited to, facial recognition, voiceprint analysis, or
53 fingerprint analysis, or other means permitted by the Secretary.

54 "Journal", a chronological record of notarial acts performed by a notary public.

55 "Jurat", a notarial act in which an individual, at a single time appears in person before a
56 notary public, is identified by the notary public through satisfactory evidence of identity and: (i)
57 presents a document or electronic record; (ii) signs the document or electronic record in the
58 presence of the notary public; and (iii) takes an oath or affirmation before the notary public
59 vouching for the truthfulness or accuracy of the contents of the signed document or electronic
60 record.

61 "Notarial act" or "notarization", an act that a notary public is empowered to perform,
62 including acts performed electronically in accordance with this chapter.

63 "Notarial certificate", the part of or attachment to a notarized document or electronic
64 record for completion by the notary that bears the notary public's signature and seal and states
65 the venue, date and facts that are attested by the notary public in a particular notarial act or
66 notarization.

67 "Notary public" or "notary", a person commissioned to perform official acts pursuant to
68 Article IV of the Amendments of the Constitution.

69 "Notarial seal," a physical image or impression affixed, stamped, or embossed on a
70 tangible record; or an electronic image attached to, or logically associated with, an electronic
71 record.

72 "Oath", a notarial act, or part thereof, that is legally equivalent to an affirmation and in
73 which an individual, at a single time, appears in person before a notary public, is identified by

74 the notary public through satisfactory evidence of identity and takes a vow of truthfulness or
75 fidelity under the penalties of perjury by invoking a deity.

76 "Official misconduct", a violation of sections 13 to 24, inclusive, or any other general or
77 special law in connection with a notarial act or a notary public's performance of an official act in
78 a manner found to be grossly negligent or against the public interest.

79 "United States", a location within the geographic boundaries of the United States, Puerto
80 Rico, the United States Virgin Islands, and any territory, insular possession, or other location
81 subject to the jurisdiction of the United States.

82 "Personal knowledge of identity", familiarity with an individual resulting from
83 interactions with that individual over a period of time sufficient to ensure beyond doubt that the
84 individual is the person whose identity is claimed.

85 "Principal", a person whose signature is notarized or a person taking an oath or
86 affirmation before a notary public.

87 "Record", information that is inscribed on a tangible medium or that is stored in an
88 electronic or other medium and is retrievable in perceivable form.

89 "Regular place of work or business", a place where an individual spends a substantial
90 portion of their working or business hours.

91 "Remotely located individual", an individual who is not in the physical presence of the
92 notary public who performs a notarial act pursuant to section 28 of this chapter.

93 "Satisfactory evidence of identity", identification of an individual based on: (i) at least 1
94 current document issued by a federal or state government agency bearing the photographic image

95 of the individual's face and signature; (ii) the oath or affirmation of a credible witness unaffected
96 by the document or transaction who is personally known to the notary public and who personally
97 knows the individual; or (iii) identification of an individual based on the notary public's personal
98 knowledge of the identity of the principal; provided, however, that for a person who is not a
99 United States citizen, "satisfactory evidence of identity" shall mean identification of an
100 individual based on a valid passport or other government-issued document evidencing the
101 individual's nationality or residence and which bears a photographic image of the individual's
102 face and signature. For purposes of a notarial act performed using communication technology
103 for a remotely located individual, "satisfactory evidence of identity" shall be determined
104 pursuant to section 28 of this chapter.

105 "Secretary," the Secretary of the Commonwealth.

106 "Signature witnessing", a notarial act in which an individual, at a single time, appears in
107 person before a notary public, is identified by the notary public through satisfactory evidence of
108 identity and presents a document or electronic record and signs the document or electronic record
109 in the presence of the notary public.

110 "Tamper evident" means the use of a set of applications, programs, hardware, software,
111 or other technologies that will display evidence of any changes to an electronic record.

112 SECTION 2. Section 1A of chapter 222 of the General Laws, as so appearing, is hereby
113 amended by striking out, in line 6, the number "26" and inserting in place thereof the following
114 number:- "29"

115 SECTION 3. Section 8 of chapter 222 of the General Laws, as so appearing, is hereby
116 amended by striking out subsection (b) in its entirety and inserting in place thereof the following
117 subsection:-

118 (b) A notary public shall keep an official notarial seal that shall be the exclusive property
119 of the notary public. A notary public shall not permit another to use such notarial seal. A notary
120 public shall obtain a new seal upon renewal of the commission, upon receipt of a new
121 commission or if the name of the notary public has changed. The notarial seal shall include: (1)
122 the notary public's name exactly as indicated on the commission; (2) the words "notary public"
123 and "Commonwealth of Massachusetts" or "Massachusetts"; (3) the expiration date of the
124 commission in the following words: "My commission expires ____"; and (4) a facsimile of the
125 seal of the commonwealth.

126 If a notarial seal that requires ink is employed, black ink shall be used. The seal of a
127 notary public may be a digital image that appears in the likeness or representation of a traditional
128 physical notary public seal. Only the notary public whose name and registration number appear
129 on an electronic seal shall affix that seal. If the seal is electronically generated, it shall include
130 the words "Electronically affixed." The requirements of this subsection shall be satisfied by
131 using a seal that, together, include all of the information required by this section. Failure to
132 comply with this section shall not affect the validity of any instrument or the record thereof.

133 SECTION 4. Section 16 of chapter 222 of the General Laws, as so appearing, is hereby
134 amended by inserting, in line 3, after the word "notarization" the following words:- , except as
135 specifically provided in this chapter.

136 SECTION 5. Section 16 of chapter 222 of the General Laws, as so appearing, is hereby
137 amended by inserting, in line 27, after the word “services” the following words:- ; further
138 provided, however, that a notary public shall not be precluded from receiving an additional
139 technology services fee that has been clearly disclosed in advance to the person requesting the
140 service so long as the technology services fee reflects the actual reasonable cost to the notary
141 public of utilizing a third-party technology service provider.

142 SECTION 6. Section 18 of chapter 222 of the General Laws, as so appearing, is hereby
143 amended by inserting after subsection (d) the following subsection:-

144 (e) Whenever the secretary believes that a notary public registered pursuant to section 28
145 has engaged in a pattern of conduct, or a standard, practice, or procedure that the secretary
146 determines is contrary to section 46E of chapter 221, he may order the notary public to comply
147 with the law. The attorney general may enforce the order by civil action as provided in said
148 section 46E. The secretary may adopt regulations governing administrative proceedings under
149 this section. The remedy provided by this section shall not in any way limit the availability of
150 judicial remedies to any person or official.

151 SECTION 7. Section 22 of chapter 222 of the General Laws, as so appearing, is hereby
152 amended by striking out, in lines 4 and 5, the words “The journal shall be a permanently bound
153 book with numbered pages, except as otherwise provided in this section” and inserting in place
154 thereof the following words:- A journal may be created on a tangible medium or in an electronic
155 format. If the journal is maintained on a tangible medium, it must be a permanent, bound
156 register with numbered pages. If the journal is maintained in an electronic format, it must be in a
157 permanent, tamper-evident electronic format complying with the rules of the Secretary.

158 SECTION 8. Section 22 of chapter 222 of the General Laws, as so appearing, is hereby
159 amended by striking out, in lines 6 and 7, the words “active journal at the same time” and
160 inserting in place thereof the following words:- tangible journal at any time. A notary may keep
161 more than 1 electronic journal provided that each electronic journal conforms to the requirements
162 of subsection (a).

163 SECTION 9. Section 22 of chapter 222 of the General Laws, as so appearing, is hereby
164 amended by striking out, in lines 33 and 34, the words “(3) the fee, if any, charged for the
165 notarial act; and (4) the address where the notarization was performed” and inserting in place
166 thereof the following words:- (3) a notation indicating whether the notarial act was conducted in
167 person or remotely; (4) the fee, if any, charged for the notarial act; and (5) the address where the
168 notarization was performed.

169 SECTION 10. Section 22 of chapter 222 of the General Laws, as so appearing, is hereby
170 amended by striking out, in lines 51 and 57, each time they appear, the words “state secretary”
171 and inserting in place thereof the following word:- “Secretary”

172 SECTION 11. Section 22 of chapter 222 of the General Laws, as so appearing, is hereby
173 amended by striking out subsection (i) in its entirety and inserting in place thereof the following
174 subsection:-

175 (i) If not in use, a journal shall be kept under the exclusive control of the notary public or
176 a third-party technology service provider designated by the notary public, provided there is a
177 mutual agreement by both the notary public and the third-party service provider, and shall not be
178 used by any other notary public or surrendered to an employer upon termination of employment.

179 SECTION 12. Chapter 222 of the General Laws is hereby amended by inserting after
180 section 26 the following sections:-

181 Section 27. Electronic notarization

182 (a) A notary public may select one or more tamper-evident technologies to perform
183 notarial acts with respect to electronic records. A person may not require a notary public to
184 perform a notarial act with respect to an electronic record with a technology that the notary
185 public has not selected.

186 (b) The Secretary shall have the authority to establish standards for approval of
187 technologies for use by notaries public commissioned by the Commonwealth of Massachusetts.

188 (c) A tangible copy of an electronic record shall be accepted as the equivalent of an
189 original document for purposes of recording said copy, provided that: (1) the copy contains a
190 notarial certificate that satisfies all requirements for an original document to be accepted for
191 recording; (2) the copy satisfies all requirements for recording an original document set forth in
192 chapter 183 and chapter 185 of the general laws, as applicable; and (3) the notarial officer
193 executing the notarial certificate certifies that the tangible copy is an accurate copy of the
194 electronic record.

195 Section 28. Notarial act performed for remotely located signatory.

196 (a) A notary public physically located in this state may perform a notarial act using
197 communication technology for a remotely located individual who is the principal in a notarial act
198 if:

199 (1) the notary public: (i) has personal knowledge of the identity of the individual; (ii) has
200 identified the remotely located individual by means of an oath or affirmation of a credible
201 witness unaffected by the document or transaction who is personally known to the notary public
202 and who personally knows the individual; or (iii) reasonably can identify the individual by at
203 least two different types of identity proofing processes or services;

204 (2) the notary public is able to execute the notarial act in a single, real-time session;

205 (3) the notary public is able reasonably to confirm that a record before the notary public
206 is the same record in which the remotely located individual made a statement or on which the
207 individual executed a signature; and

208 (4) the notary public, or a person acting on behalf of the notary public, creates an audio-
209 visual recording of the performance of the notarial act.

210 (b) A notary public physically located in the commonwealth may perform a notarial act
211 using communication technology for a remotely located individual who is located outside the
212 United States if: (1) the record is to be filed with or relates to a matter before a public official or
213 court, governmental entity, or other entity subject to the jurisdiction of the United States; or
214 involves property located in the territorial jurisdiction of the United States or a transaction
215 substantially connected with the United States; and (2) the act of making the statement or signing
216 the record is not prohibited by the foreign state in which the remotely located individual is
217 located.

218 (c) A notary public shall not use communication technology to notarize a record related
219 to the electoral process, or a will, codicil, or document purporting to be a will or codicil.

220 (d) Before a notary public performs the notary public's initial notarization using
221 communication technology, the notary public shall register as a remote notary with the Secretary,
222 inform the Secretary that the notary public will be performing remote notarizations and identify
223 the communication technology that the notary public intends to use. The remote notarization
224 system must conform to the requirements of this chapter and any rules adopted by the Secretary.
225 The notice must be submitted in the form required by the Secretary and must: (1) include an
226 affirmation that the notary public has read and will comply with this section and all rules adopted
227 by the Secretary; (2) be accompanied by proof that the notary public has successfully completed
228 any training and examination required by this section or that may be required by the Secretary;
229 and (3) identify a usual place of business in this state or, if a foreign entity, identify a registered
230 agent, and in either case an address for service of process in connection with a civil action or
231 other proceeding.

232 (e) If a notarial act is performed under this section, the certificate of notarial act required
233 by section 15 must indicate that the notarial act was performed remotely using communication
234 technology and identify the venue for the notarial act as the county within the commonwealth
235 where the notary public is physically located while performing the notarial act.

236 (f) A notary public, a guardian, conservator, or agent of a notary public, or a personal
237 representative of a deceased notary public shall retain the audio-visual recording created under
238 subsection (a)(4) or cause the recording to be retained by a repository designated by or on behalf
239 of the person required to retain the recording. The recording must be retained for a period of ten
240 (10) years after the recording is made.

241 (g) Upon request, the notary public shall make available electronic copies of the pertinent
242 entries in the electronic journal and provide access to any related audio-video communication
243 recording to the following persons: (1) the parties to an electronic record notarized by the notary
244 public; (2) the title insurer reviewing an insured transaction in the context of an audit of its agent,
245 if the agent conducted the electronic notarial act as an element of the insured transaction; and (3)
246 any other persons pursuant to a subpoena, court order, law enforcement investigation, or other
247 lawful inspection demand.

248 (h) The Secretary shall have the authority to establish standards for the use of
249 communication technology and identity proofing. A notary public who uses communication
250 technology shall conform to those standards.

251 (i) In addition to the authority set forth in subsection (h), the Secretary may adopt rules
252 under this section regarding performance of the notarial act. The rules may: (1) prescribe the
253 means of performing a notarial act involving a remotely located individual using communication
254 technology; (2) establish requirements or procedures to approve providers of communication
255 technology and the process of identity proofing; and (3) establish standards for the retention of
256 an audio-visual recording created under subsection (a)(4).

257 (j) By allowing its communication technology or identity proofing to facilitate a notarial
258 act for a remotely located individual or by providing storage of the audio-visual recording
259 created under subsection (a)(4), the provider of the communication technology, identity proofing,
260 or storage appoints the Secretary as the provider's agent for service of process in any civil action
261 in this state related to the notarial act.

262 (k) Unless the Secretary adopts rules setting standards that are equally or more protective,
263 the following minimum standards shall apply to notarizations utilizing communication
264 technology performed by a notary public in the Commonwealth:

265 (1) Identity proofing by means of dynamic knowledge-based authentication that must
266 have, at a minimum, the following security characteristics:

267 (i) the remotely located individual must be presented with five or more questions with a
268 minimum of five possible answer choices per question;

269 (ii) each question must be drawn from a third-party provider of public and proprietary
270 data sources and be identifiable to the social security number or other identification information
271 of the remotely located individual, or such individual's identity and historical events records;

272 (iii) responses to all questions must be made within a 2-minute time constraint;

273 (iv) the remotely located individual must answer a minimum of 80 percent of the
274 questions correctly;

275 (v) if the remotely located individual fails the first attempt, the individual may be offered
276 one additional attempt within twenty-four hours of the initial failed attempt; and

277 (vi) during the second attempt, the remotely located individual may not be presented with
278 more than three questions from the prior attempt.

279 (2) Identity proofing by means of credential analysis using one or more commercially
280 available automated software or hardware processes that, consistent with sound commercial
281 practices, aid the notary public in verifying the authenticity of the credential by analyzing the
282 integrity of visual, physical, or cryptographic security features to indicate that the credential is

283 not fraudulent or inappropriately modified; and use information held or published by the issuing
284 source or authoritative source to confirm the validity of credential details. The results of the
285 credential analysis process must be provided to the notary public performing the notarial act.

286 (3) Use of audio-video communication technology in completing notarizations that must
287 meet the following requirements: (i) the signal transmission must be reasonably secure from
288 interception, access, or viewing by anyone other than the participants communicating; and (ii)
289 the technology must provide sufficient audio clarity and video resolution to enable the notary to
290 communicate with the remotely located individual and any witness, and to confirm the identity
291 of the remotely located individual and any witness, as required, using identity proofing.

292 (4) The communication technology is deemed to have satisfied tamper-evident
293 technology requirements by use of technology that renders any subsequent change or
294 modification to the electronic record evident.

295 (5) With respect to notarial acts conducted in the course of a closing, as that term is
296 defined in section 46E of chapter 221, the communication technology shall be engaged by the
297 closing attorney with the approval of the lender. Upon successful verification of the identity of
298 the remotely located individual by the notary as required by Section 28(a)(1) of chapter 222,
299 such attorney shall enter and affirm the Massachusetts Board of Bar Overseers assigned number
300 of the attorney prior to the conduct of the first notarial act. The communication technology shall
301 be responsible for recording such information in a manner that is logically associated with the
302 transaction and shall retain such information for the same length of time and in the same manner
303 as it retains all other information regarding the notarial act.

304 (6) In addition to any coverage it elects to provide for individual notaries public,
305 maintenance of errors and omissions insurance coverage by a communication technology service
306 provider in a total amount of at least \$250,000 in the annual aggregate with respect to potential
307 errors or omissions in or relating to the technology or processes provided by the communication
308 technology service provider. A notary public is not responsible for the security of the systems
309 used by the remotely located individual or others to access the notarization session.

310 (7) A two-hour in-person or online course addressing the duties, obligations, and
311 technology requirements for conducting remote notarizations offered by the Secretary or a
312 vendor approved by the Secretary shall be completed by a notary public prior to the notary
313 public's initial notarization using communication technology. Each such provider shall make the
314 in-person or online course generally available to all applicants. Regardless of membership in the
315 provider's organization, the provider shall charge each attendee the same cost for the course
316 unless the course is provided in conjunction with a regularly scheduled meeting of the provider's
317 membership.

318 (l) Notwithstanding any provision of this act to the contrary, with respect to any
319 document executed in the course of a closing, as that term is defined in section 46E of chapter
320 221, involving a mortgage or other conveyance of title to residential real property, only a notary
321 public appointed pursuant to this chapter who is an attorney licensed to practice law in the
322 commonwealth or a non-attorney, either under the direct supervision of or pursuant to a direct
323 request by such an attorney who is directing or managing the closing, shall perform an
324 acknowledgment, affirmation or other notarial act utilizing communication technology. The
325 notarial certificate affixed to any such document shall recite the Massachusetts Board of Bar
326 Overseers registration number of the Massachusetts attorney notary, or of the supervising

327 Massachusetts attorney in the event that the document is notarized by a non-attorney. Failure to
328 comply with this section shall not affect the validity of the document or the recording thereof.

329 Section 29. A notary public shall not use, sell, or offer to sell to another person or
330 transfer to another person for use or sale any personal information obtained under Section 28 that
331 identifies a remotely located individual, a witness to a remote notarization, or a person named in
332 a record presented for remote notarization, except: (a) as necessary to facilitate performance of a
333 notarial act; (b) to effect, administer, enforce, service, or process a record provided by or on
334 behalf of the individual or the transaction of which the record is a part; or (c) in accordance with
335 this section, including the rules adopted pursuant thereto, or other applicable federal or state law,
336 or to comply with a lawful subpoena or court order.

337 SECTION 12. Chapter 221 of the General Laws is hereby amended by inserting after
338 section 46D the following section:-

339 Section 46E. Practice of law in real estate closings involving the use of communication
340 technology.

341 (a) With respect to real estate closings involving the use of communication technology, as
342 that term is defined in chapter 222, the following words, as used in this section, shall have the
343 following meanings, unless the context clearly requires otherwise:

344 “Closing,” the consummation of a transaction between parties for the purpose of granting
345 a mortgage or otherwise transferring title to real property, including the execution of documents
346 necessary to accomplish the valid and proper transfer of title and the transfer of the consideration
347 for the conveyance, whether done simultaneously with or subsequent to the execution of
348 documents for the transfer of title; excepting herefrom any transaction in which the consideration

349 for the transfer of title is evidenced solely by a home equity loan or line of credit that is secured
350 by a mortgage lien on a residential dwelling with four or fewer separate households, does not
351 involve the issuance of a lender's or mortgagee's policy of title insurance in connection with
352 such transaction, and is to be retained by the lender and not sold on the secondary mortgage
353 market.

354 "Creditor", a person or entity that holds or controls, partially, wholly, indirectly, directly
355 or in a nominee capacity, a mortgage loan securing real property, including, but not limited to, an
356 originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage
357 Electronic Registration System or mortgage servicer, including the Federal National Mortgage
358 Association or the Federal Home Loan Mortgage Corporation; provided, that "creditor" shall also
359 include any servant, employee, representative or agent of a creditor.

360 (b) Notwithstanding any provision of the general laws, no person shall direct or manage a
361 real property closing unless that person has been admitted as an attorney in the Commonwealth
362 of Massachusetts and has not been disqualified from the practice of law due to resignation,
363 disbarment, suspension or placement on inactive status.

364 (c) No person shall take the following actions in preparation for, or furtherance of, a
365 closing unless that person has been admitted as an attorney in the Commonwealth of
366 Massachusetts and has not been disqualified from the practice of law due to resignation,
367 disbarment, suspension or placement on inactive status:

368 (1) giving or furnishing legal advice as to the legal status of title;

369 (2) ensuring that the seller, or the borrower-mortgagor in a mortgage refinancing
370 transaction, is in a position to convey marketable title to the residential property at issue;

371 (3) issuing a certification of title pursuant to section 70 of chapter 93;

372 (4) drafting a deed to real property on behalf of another;

373 (5) ensuring that the documents necessary for the transfer of title are executed in
374 accordance with the laws of the Commonwealth of Massachusetts;

375 (6) disbursing, or managing the disbursement, of consideration for the conveyance.

376 (d) The attorney general may initiate an action, including a petition for injunctive relief,
377 against any person or creditor whose violation of this section is part of a pattern, or consistent
378 with a practice, of noncompliance. The supreme judicial court and the superior court shall have
379 concurrent jurisdiction in equity. A person having an interest or right that is or may be adversely
380 affected by a violation of this section may initiate an action against the person or creditor for
381 private monetary remedies.