

Services Guide

Notaries

**NOTE 1: This information is pulled from credible sources. This information is a guide. Any information used from this guide must be re-contextualized (no copying and pasting). Re-contextualize information incorporating SEO and business specifics.*

**NOTE 2: For MCP websites, stick to general information and avoid specifics.*

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1. NOTARIES OVERVIEW

1.1 GENERAL INFORMATION

<https://www.redsealnotary.com/public-canada/>

- A notary public is a person who can serve as an official witness to the execution (signing) of contracts, agreements, and an almost limitless array of legal documents.
- A notary public may also certify documents to be true copies of the original.
- A notary has the authority to administer oaths, solemn affirmations, and declarations that are used for affidavits and statutory declarations.
- In some jurisdictions, a notary public can also draft contracts, promissory notes, wills, mortgages, and other legal documents.
- In some jurisdictions such as a number of Canadian provinces, the requirements for becoming a notary public are stringent such that effectively only lawyers are qualified to provide notary public services.
- Notaries can help prepare and sign:
 - Property purchases, sales, and transfers
 - Mortgages and refinancing
 - Loans
 - Wills
 - Powers of attorney
 - Representation agreements (*for British Columbia only*)
 - Estate executorships
 - Statutory declarations
 - Affidavits
 - Private lender mortgages
 - Travel consent letters
 - Insurance loss declarations
 - Marriage licences
 - Mediation
 - Immigration consulting
 - Life/critical/disability insurance
 - Advance directives
 - Builders liens
 - Certified true copies

1.2 SEO**Keywords (First Row – BEST, Last Row – LEAST)**

○ Notary public	○ Notary officer	○ Notary agent	○ Title searches
○ Notaries	○ Notarization of documents	○ Affidavits	○ Contracts
○ Statutory declaration	○ Notary seal	○ Commissioner of oaths	○ Wills
○ Notarized letter	○ Local notary public	○ Notarization	○ Powers of attorney

2. CONTRACTS, AGREEMENTS & LEGAL DOCUMENTS**2.1 PROPERTY PURCHASES, SALES AND TRANSFERS**

<https://www.simpsonnotaries.com/real-estate-conveyancing/>

General:

- Navigating real estate purchases and sales involving large sums of money can be an intimidating prospect. Your notary's job is to take the guesswork and uncertainty out of the process.
- Notaries public can help with many non-contentious legal matters, including conveyancing—the purchase, sale and mortgage of property.

Benefits	Description
1. Your notary is the bridge between you and the buyer or seller.	<ul style="list-style-type: none">○ Allow your notary to act as the intermediary between the two parties involved in the real estate transaction.○ Your notary is your representative, and has your best interests at heart.
2. Your notary's job is to protect you during the deal.	<ul style="list-style-type: none">○ You're not likely to be comfortable handing over large sums of cash to a buyer you don't know, and similarly, you would not want to release your property's title without guarantee of payment.○ Your notary will ensure the transaction goes smoothly and payment is made on time.
3. Your notary will ensure all	<ul style="list-style-type: none">○ During the transaction, a central part of your notary's job is

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the proper paperwork is filed.

to ensure that funds are calculated and adjusted accordingly and that all the appropriate paperwork is completed and registered so that title to the property is transferred.

2.2 MORTGAGES AND REFINANCING

<http://www.notaries.bc.ca/resources/showContent.rails?resourceId=1968>

General:

- Many homeowners have significant equity in their homes
 - Either because they've paid down an existing mortgage, enjoyed a significant increase in the value of their home as house prices have risen- or both.
- Mortgage Refinancing involves borrowing money, usually in the form of a line of credit against the current value of your home.
- Using your home as security, you can arrange to have funds available to help you pay for your children's education, purchase a second property for an investment or recreation, take that long-delayed dream vacation or simply ease your retirement.

The Process:

- If you already have a lender, usually a bank or mortgage broker, they will ask you to complete a credit application, often online but sometimes in hard copy.
- Many lenders can approve your credit application within hours or days.
- Once your credit application is approved, it's time to visit your local notary.
- We will provide legal advice, complete the necessary documents and return them to your lender to help them make your funds available as quickly and conveniently as possible.

2.3 LOANS

http://wiki.lawdepot.ca/wiki/Make_it_Legal:_Loan_Agreement

General:

- In most cases, you will not need witnesses to the signing of a loan agreement, nor will the document need to be notarized.
- However, depending on the nature of the loan and the governing law of the jurisdiction in which you're entering into the loan, witnesses or notarization may be required.
- Even if it isn't required, it's a good idea to have an objective third party witness the signing of the document, as this will provide better evidence when you need to enforce the repayment of the loan.
- Signing the note in front of a notary public is the best evidence that the borrower signed the loan agreement.

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2.4 WILLS

<http://www.investopedia.com/articles/pf/08/what-is-a-will.asp>

General:

- A will is a legal document that sets forth your wishes regarding the distribution of your property and the care of any minor children.
- To maximize the likelihood that your wishes are carried out, you want a will that is set forth in writing, and signed by you and your witnesses
- If your will does not meet these standards, your instructions may not be carried out.

Types of Wills	Description
Self-proving/Testamentary Will	<ul style="list-style-type: none">○ A self-proving will, also known as a testamentary will, is the traditional type of will with which most people are familiar.○ It is a formally prepared document that is signed in the presence of a witness.
Holographic Will	<ul style="list-style-type: none">○ Holographic wills are written without the presence of witnesses.○ They rarely hold up in court
Oral Will	<ul style="list-style-type: none">○ Oral wills are spoken testaments given before witnesses.○ They are not widely recognized from a legal perspective.
Living Will	<ul style="list-style-type: none">○ A living will has nothing to do with the distribution of assets, but rather sets forth your wishes for medical care in terms of life support should you be incapacitated.

Why Do I Need One?

Reason	Description
Distribution of Assets	<ul style="list-style-type: none">○ Creating a will gives you sole discretion over the distribution of your assets.○ It lets you decide how your belongings, such as cars or family heirlooms, should be distributed.○ If you have a business or investments, your will can direct the smooth transition of those assets.
Child Care	<ul style="list-style-type: none">○ If you have minor children, a will lets you provide for their care.○ If you have children from a prior marriage, even if they are adults, your will can dictate the assets they receive.○ Creating a will also minimizes tensions among survivors.

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	<ul style="list-style-type: none">○ Relatives battling over your possessions can weaken what may have otherwise been a strong family.
Distribution of Charity Assets	<ul style="list-style-type: none">○ If you are charitably inclined, a will lets you direct your assets to the charity of your choice.○ If you wish to leave your assets to an institution or an organization, a will can see that your wishes are carried out.

2.5 POWERS OF ATTORNEY

https://www.lawdepot.ca/law-library/power-of-attorney-faq-canada/#.Wlksr_nIYrh

General:

- A power of attorney is a document in which one person (the donor) appoints another person (the attorney) to act for him or her.
- There are many reasons why you might want to appoint someone else to look after your financial affairs.
 - For example, if you are going to be out of the country for a lengthy period of time, you might want someone to do your banking while you are gone.
- If you are approaching old age, you may want to give a power of attorney to a person you trust so that he or she can manage your property for you.

Types of Powers of Attorney	Description
Ordinary	<ul style="list-style-type: none">○ An ordinary power of attorney is only valid as long as the donor is capable of acting for him or herself.○ If the donor dies or becomes mentally incompetent, the power of attorney is invalidated.
Enduring	<ul style="list-style-type: none">○ An enduring power of attorney remains valid even if the donor later becomes mentally incompetent.

- In either case, the power of attorney becomes invalid when the donor dies.
- A power of attorney cannot be used to bequeath property upon the death of the donor.

2.6 REPRESENTATION AGREEMENTS

http://www.nidus.ca/?page_id=50

General:

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- It allows you to authorize one or more personal supporters to be your representative to help you manage your affairs and, if necessary, to make decisions on your behalf in case of illness, injury, or disability.
- A Representation Agreement is the only way you can appoint someone to assist you or to act on your behalf for health care and personal care matters. It can also cover routine financial affairs.

Whom Should You Appoint?

- Most people appoint a spouse or partner, family member, or friend, in their Agreement. Those you appoint may live in another city, province, or country.
- The law has some restrictions. You cannot appoint:
 - Someone who is compensated to provide health or personal care services to you (e.g. a paid caregiver)
 - An employee of a facility where you live if the facility provides health or personal care services to you. These restrictions do not apply if the person is your spouse, parent or child.
- There are many factors to consider when choosing who to involve in your Representation Agreement, such as: your trust in them, their skills and abilities, and their understanding of your wishes and values.

2.7 ESTATE EXECUTORSHIPS

<http://www.cbabc.org/for-the-public/dial-a-law/scripts/wills-and-estates/178>

General:

- The executor is named in a will.
- In general, the executor gathers up the estate assets, pays the deceased's debts, and divides what remains of the deceased's estate among the beneficiaries.
 - The beneficiaries, in turn, are the people named in the will to inherit the testator's estate.

2.8 STATUTORY DECLARATIONS

https://en.wikipedia.org/wiki/Statutory_declaration#Canada

General:

- In Canadian jurisdictions, statutory declarations are statements of facts written down and attested to by the declarant before individuals who are authorized to administer oaths, except that they are normally used outside of court settings.
- They have the same effect in law as a sworn statement or affidavit.
- In federal proceedings, the form is governed by the Canada Evidence Act.

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- Similar provision is made by the various provinces for use in proceedings within their respective jurisdictions.

2.9 AFFIDAVITS

https://www.lawdepot.ca/law-library/Affidavit-and-Statutory-Declaration-FAQ-Canada/#.Wlozh_nIYrg

General:

- An affidavit is a sworn statement of facts that has been written down and sworn to by the affiant before individuals who are authorized to administer oaths.
- A statutory declaration is similar to an affidavit except that a statutory declaration is usually used outside of court settings.
 - For example, proof of death to be used for land transfer when one of the grantors dies. These types of declarations are made subject to the provisions of certain legislation. Generally, a statutory declaration has the same force of effect as if made under oath.

2.10 PRIVATE LENDER MORTGAGES

<https://www.ratehub.ca/private-mortgage-loans>

General:

- Private mortgages are short-term, interest-only loans, ranging in length from 1 to 3 years.
- Interest only loans do not require homeowners to pay the mortgage principal down, and instead only require interest payments each month.
- Private lenders have realized that conservative lending guidelines used by banks and conventional lenders exclude many individuals who are in fact able to pay back loans.
- Most importantly, private lenders take into account a property's overall value and marketability as opposed to simply the borrower's credit history.

Why Use a Private Mortgage Lender:

- You would use a private mortgage under any of the following circumstances:
 - You want to purchase an unconventional property that a prime lender or bank won't finance.
 - You need fast financing and don't want to wait for a long approval process.
 - Your bad credit history means you are being turned down by conventional lenders.
 - You only need a short-term loan.
 - You have non-confirmable income that is preventing you from obtaining a traditional mortgage.

2.11 TRAVEL CONSENT LETTERS

<https://travel.gc.ca/travelling/children/consent-letter>

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General:

- We strongly recommend that Canadian children carry a consent letter if they are travelling abroad alone, with only one parent/guardian, with friends or relatives or with a group.
 - For the purposes of this consent letter, a Canadian child is defined as anyone who is under the age of majority (18 or 19, depending on the province or territory of residence).
- A consent letter is not a legal requirement in Canada, but it can simplify travel for Canadian children, as it may be requested by immigration authorities when entering or leaving a foreign country or by Canadian officials when re-entering Canada.
 - The letter demonstrates that Canadian children have permission to travel abroad from parents or guardians who are not accompanying them.
- We recommend that you talk to a lawyer about the legal issues that apply to you and your children's unique situation, particularly if your parenting arrangement has special terms governing international travel.
 - Carrying a consent letter does not guarantee that children will be allowed to enter or leave a country, as every country has its own entry and exit requirements.

2.12 INSURANCE LOSS DECLARATIONS

<https://www.redsealnotary.com/Publications/2013-05-22-Bring-your-Proof-of-Loss-form-to-Red-Seal-Notary.php>

General:

- Also known as Proof of Loss, insurance loss declarations are required by insurance policy providers as part of the insurance claim process.
- Once you have contacted your insurer, your claims adjuster will likely ask you to complete a proof of loss form and sign it in the presence of a commissioner of oaths.
- There are typically three types of proof of loss forms:
 - One for automobile claims
 - One for fire claims
 - One for general claims of loss (theft, non-fire home damage, etc.)
- For home or tenant's insurance claims, you will be asked to itemize the items that were stolen or damaged on your proof of loss form.

2.13 MARRIAGE LICENCES

<http://www2.gov.bc.ca/gov/content/life-events/marriages>

General:

- At some time in the three months prior to your wedding date, you will need to buy a marriage licence. Only one member of the couple is required to apply for a marriage licence, but he or she must apply in person, and show primary identification for both parties.
- Examples of primary identification include:
 - Birth certificate

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- IMM/immigration form
- Permanent resident card
- Citizenship card
- The marriage licence issuer may accept a passport or driver's licence in some circumstances.

2.14 MEDIATION

<http://judylarkins.com/news/mediated-agreements-notarized-signatures-and-legal-review-divorce-proceedings>

<http://www.johncurtis.ca/mediation/the-mediation-agreement-why-is-it-so-important/>

General:

- The mediation agreement plays a crucial role in the mediation process.
- Private mediators will draft their own agreements. These are between the parties and the mediator. Despite differences in wording or specifics, the agreement has two main purposes:
 - To protect the mediator
 - To explain the process
- Notarization is required by the court on certain forms and the final agreement to ensure that the signor is indeed who they are representing themselves to be.
- The notary views a picture ID to validate the identity of the signor and keeps a journal of the signatures that have been witnessed.

2.15 IMMIGRATION CONSULTING

<http://www.visaplace.com/blog-immigration-law/spousal-sponsorship/services-immigration-consultants-provide/>

General:

- Some of the services offered by immigration consultants include:
 - Helping prepare a clients' immigration applications and paperwork, or proofreading them to ensure they are accurate and error-free.
 - Assisting clients in all facets of immigration to Canada, including family sponsorship, appeals, refugee claims, temporary residency, student immigration and working in Canada.

2.16 ADVANCE DIRECTIVES

<http://www.cancer.ca/en/cancer-information/cancer-journey/advanced-cancer/advance-directives/?region=qc>

General:

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- Advance directives are legal documents that describe what you want for your medical care, finances and estate.
- They allow you to clearly outline your decisions about end-of-life care and who will act on your behalf when necessary.
- Advance directives take effect only when you die or if you become unable to make decisions.
- Examples of these documents include:
 - Living wills
 - Power of attorney
 - Wills
 - Making final arrangements
 - Organ, tissue or body donation

2.17 BUILDERS LIENS

<https://www.lien-pro.com/builders-lien-definition>

General:

- A builders lien is typically used if you are having difficulty getting paid. When you file a builders lien, you are registering a legal interest against the property you have done work on. You are showing you have a financial interest in the project, for monies owed for the work you have done.
- If you have provided work and/or materials to a job site that help to improve the land, you can file a builders lien.
- Liens must be filed within a specific time period, which varies in each province. Also, in some provinces the term builders liens can also refer to or be known as construction liens and mechanics liens.

2.18 CERTIFIED TRUE COPIES

<https://www.nationalnotary.org/notary-bulletin/blog/2015/08/most-common-types-of-notarizations>

General:

- A certified true copy confirms that a reproduction of an original document is a “full, true, and accurate transcription or reproduction” of the original.
- Documents requiring copy certification may include: diplomas, driver’s licences, leases, contracts, vehicle titles, Social Insurance cards, medical records and bills of sale.
- The Notary typically will make a photocopy of the document and complete a certificate for the copy certification to confirm that the photocopy is a true, accurate and complete copy of the original.