

Arkansas Notary Public and eNotary Handbook





JOHN THURSTON

ARKANSAS SECRETARY OF STATE

Dear Notary Public:

I am pleased to introduce the most recent printing of the Arkansas Notary Public Handbook, which features information specifically of interest to notaries public.

The handbook explores issues including:

- Proper notary practices
- Notarial powers and responsibilities
- Notary supplies
- Application and renewal process
- Changes to personal information
- Proper Notarization Procedures
- Errors to avoid as a notary public
- Electronic notarization
- Text of Arkansas's notary laws

If you need additional information or have questions, please contact the Arkansas Secretary of State Business and Commercial Services Division at 501-682-3409, 1-888-233-0325 or e-mail notary@sos.arkansas.gov.

Sincerely,


John Thurston
Secretary of State

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What is a Notary Public?

A notary public acts as an official and unbiased witness to the identity of a person who appears before the notary. This person may be taking an oath, giving written testimony, or acknowledging his/her signature on a legal document.

Identity is critical. The notary must be certain that the person appearing before him/her is who that person claims to be. Personal appearance before the notary is required. A notary cannot notarize a document by video or remotely.

A notary public cannot notarize his/her own signature, or a document to which the notary is party, or a document from which the notary would gain direct or indirect financial benefit.

A notary is authorized by law to perform certain notarial acts. Each notarial act has legal significance and affects the legal rights of others.

Application and Renewal Process

Qualification

Under Arkansas law, a notary public is appointed and commissioned by the Secretary of State. Each applicant must complete an application stating:

- 1. The applicant is a legal resident of Arkansas, or a legal resident of an adjoining state and employed in Arkansas.*
- 2. The applicant is a United States citizen or a permanent resident alien. (Include a copy of a recorded Declaration of Domicile.)*
- 3. The applicant is at least eighteen (18) years old.*
- 4. The applicant is able to read and write English.*
- 5. A prior notary commission has not been revoked in the past ten (10) years.*
- 6. The applicant has not been convicted of a felony.*
- 7. The applicant's residential address, or if the applicant lives in an adjoining state but works in Arkansas, list both the business and residential address.*
- 8. The applicant has reviewed the law concerning notaries public and understands the duties of a notary public.*

Application

Step 1: Obtain Surety Bond

- A surety bond in the amount of \$7,500 is required.
- If you are renewing a commission, you must obtain a new surety bond for the dates of the new commission.
- You must purchase either a surety bond executed by a surety insurer authorized to do business in the state of Arkansas or a surety contract from a general business Arkansas corporation which has registered with the Arkansas Insurance Department and otherwise complied with all requirements under Arkansas law.
- List your name on your surety bond as you want it to appear on your official seal of office
 - **Note:** Use a name you are comfortable with; if you don't commonly sign your middle name or middle initial, don't put it on your bond application.

Step 2: Notary Management System Account

- Create your free account at **<http://bcs.sos.arkansas.gov>**
- Log into the Notary Management System.
- Select from the “Notary” drop-down box the type of application you wish to file.
 - Notary Public Registration – 1st time applicants
 - Notary Public Renewal – To renew a current or expired commission

Step 3: Complete Exam

- A multiple choice exam is required for all new and renewing applicants.
- A minimum score of 80% must be achieved in order to access the notary public application.
- In addition to this handbook, study resources such as Frequently Asked Questions (FAQs) and free online notary training are available through the Notary Management System.

Step 4: Complete the Secretary of State Application

- Upon successful completion of the exam, you will be immediately directed to the notary public application page. You must complete all the required information at this time or you will be required to take and pass the exam again.

- Print and sign your name on the application exactly as it is printed and signed on your surety bond.
- Your residential address must be listed to establish eligibility.
- If you are an Arkansas resident, your county of commission is the county where you reside.
- If you live in an adjoining state that borders Arkansas, you must list your residential address in the other state AND your employer's street address in Arkansas to establish eligibility.
- Email addresses are requested, but not required. The Secretary of State's Office will often send updates concerning notary laws, training and procedures via email. Only those who attach an email address to their notary record will receive this correspondence.
- There is an option to "opt in" to having an email address available on the public search. By default, your email address is not made public.
- Make sure to designate on the application that you meet all requirements listed by checking the appropriate boxes.
- Have the application notarized by a notary in good standing in the State of Arkansas. You can check the status of any notary public by clicking the "Notary Public" button on the landing page of the Notary Management System at **<http://bcs.sos.arkansas.gov>**.

Step 5: Submit your Application

Return your completed application with your original signature, copy of the surety bond and \$20 application fee to the Secretary of State's Office. This may be submitted by mail or in person. Please allow 2-4 weeks for processing. If you attached an email address to your record, you will receive a notification when your application has been accepted and processed. The corresponding hard copy documents will be mailed to you via the United States Postal System. Allow 7-10 business days for delivery.

- We can only accept original applications, do not mail a photocopy of the application.
- To avoid the risk of rejection, ensure that the notary who notarizes your application is in good standing and that they correctly notarize the affidavit at the bottom of the application.

Address:

Arkansas Secretary of State
Business & Commercial Services Division
1401 W. Capitol Avenue, Suite 250
Little Rock, AR 72201

Step 6: Certificate of Commission and Oath of Office

- If your application is approved, you will be issued three (3) certificates of commission.
- Review the certificates of commission for accuracy:
 - Name spelled correctly;
 - Commission number issued;
 - Proper county of commission;
 - Commission expiration date is ten (10) years past application date.

Note: *Contact the Secretary of State's Office immediately if any of the printed information is incorrect.*

Step 7: County's recorder of deeds.

- Take all three (3) certificates to the recorder of deeds in your county of commission. In most cases, it is the circuit clerk and occasionally it may be the county clerk.
- The notary public will sign all three (3) certificates of commission in the presence of the clerk, officially swearing and affirming that you will faithfully perform your duties as a notary public. The clerk will also sign all certificates.
- The circuit clerk will file one (1) certificate of commission and your original bond in his or her office and return two (2) to you.
- There will be a separate fee paid to the county for this filing.

Step 8: Secretary of State

- Return one (1) of the completed certificates, by mail or in person, as soon as possible. Your commission is not valid until you file the completed oath of office with both the county recorder of deeds and the Secretary of State.
- Your county may offer to send the certificate in for you. It is still your responsibility to ensure it has been filed with the Secretary of State's Office in a timely manner.

- After you return one (1) of the completed certificates, you will receive your notary public identification card.

Step 9: Seal of Office

- After you receive your notary identification card, you may purchase your official seal of office. (See page 7 for notary seal requirements.)
- You will purchase your stamp from the company of your choosing. The Secretary of State's Office does not make or issue stamps.

Note: Many stamp makers will want to see a completed oath certificate and/or identification card before issuing the seal of office.

If you have any questions, contact the Secretary of State's Business and Commercial Services Division at 501-682-3409 or toll free at 888-233-0325 or by email at notary@sos.arkansas.gov.

Renewal

A notary's commission is for a term of ten (10) years. An application for renewal may be submitted no earlier than sixty (60) days before the expiration date of the current commission.

A notary may renew their commission by following the same nine steps listed above, but by submitting an application for renewal in lieu of a new or first time application. A new bond will need to be secured and submitted with a new application and application fee.

If a notary has been issued a commission number, this number needs to be listed on the renewal application.

Changes in Personal Information

If a notary changes his or her name or address that is on file with the Secretary of State, the notary must notify the Secretary of State in writing of these changes within thirty (30) days of the change. An amendment form is available through the notary management system at <http://bcs.sos.arkansas.gov> and may be submitted in person or by mail.

Changes to name

Along with the amendment form, the notary will need to submit a certified copy of a marriage license, divorce decree or court document concerning a legal name change. A certified copy will include an official seal of the county, many times this is a raised or embossed seal, and will have an original signature of the authorizing county official. A plain photocopy of the legal document is not sufficient. The Secretary of State's Office will issue a new identification card to the notary, reflecting the change in the notary's name.

The notary must purchase a new seal of office that reflects the new name.

Change of address

If the change of residential address occurs within the same county that the notary is commissioned, the change of personal information form which states the old address and new address is all that will need to be submitted.

Notaries who move from one county to another within Arkansas must submit a change of personal information form and have their commission transferred to the new county of residence.

Arkansas notaries who live out of state

Arkansas notaries who live out of state but have a notary commission based upon their employer's information must submit a change of personal information form and have their commission transferred to the new county of employment in Arkansas. An Arkansas notary commission for an out of state resident is only valid as long as they maintain employment in Arkansas.

Change in county

After the notary notifies the Secretary of State that their county of commission has changed, they will need to notify the circuit clerk in their previous county of commission.

The Secretary of State's Office will issue a certificate verifying the change of the notary's county of commission. The notary must present this certificate to the circuit clerk in the original county of commission. The circuit clerk will return the notary's original bond.

The notary must then file the original bond – or certified copy of the original bond – with the circuit clerk in the new county of commission.

The Secretary of State's Office will issue a new identification card to the notary, reflecting the change in county of commission.

The notary must purchase a new seal of office that reflects the new county of commission.

Notary Supplies

Seal of office

Each notary public must have a seal of office, which can be either a rubber stamp or a metal embosser. The seal MUST be in blue or black ink and include the following information:

- The notary public's official name as written in his/her official signature.
- The notary's county of commission – the county where his/her bond is filed.
- The words "Notary Public" and "Arkansas."
- Notary public's commission expiration date.
- Notary public's commission number.

The seal of office may NOT include:

- Great Seal of the State of Arkansas
- Outline of the State of Arkansas

The notary seal must be clear, legible, and capable of photographic reproduction. When using an embosser, you must use blue or black ink with the embosser to ensure it can be photocopied.

When notarizing a document, the notary public must sign his or her official signature, as on file with the Secretary of State's Office, on every notary certificate, in blue or black ink, and affix his or her seal under or near his or her signature in blue or black ink.

When a notary obtains a new seal of office due to a change in personal information, or if a notary resigns a commission before its expiration date, the notary should immediately destroy the previous seal of office.

An employer may pay for an employee's notary commission, seal and bond, but the employer may not "revoke" the commission, even if the notary leaves employment. The notary commission is issued to the individual and remains valid until its expiration date or until resigned by that individual. This includes the bond, seal of office and any supporting documents.

Facsimile signature

The notary may use a facsimile signature and seal, such as a stamp or engraved reproduction, in blue or black ink, in lieu of the manual signature and rubber or embossed seal on commercial documents, except on deeds or other documents for conveying real estate. If a facsimile signature or seal is to be used, the notary must first file with the Secretary of State's office his or her manual signature, a description of the type of commercial documents to be notarized, and the name, manual signature, and written consent of any other persons signing the commercial documents (See A.C.A. § 21-14-201 in the back of this book).

Notary register or journal

A register or journal offers an excellent way of recalling past notarial acts. If a notary is called upon to testify in court, a register or journal may help establish what actually took place. The notary's records and official papers are admissible as evidence in all Arkansas courts (See A.C.A. § 21-14-110 in the back of this book). The law does not require a notary to keep any record of his or her official acts, but it is recommended that each notary keep a register or journal.

Suggested Format:

1. Date of notarial act.
2. Type of act performed.
3. Type of document involved.
4. Name and address of each person whose signature was notarized.
5. Signature of each person whose signature was notarized.
6. A "notes" section of personal annotations.
7. Itemized list of fees collected.

Powers and Duties

Under Arkansas law, a notary has the power to perform the following basic notarial acts:

1. Swearing witnesses.
2. Taking affidavits.
3. Administer oaths.
4. Taking depositions under Rule 28 of the Arkansas Rules of Civil Procedure and Rule 28 of the Federal Rules of Civil Procedure.
5. Taking acknowledgements of deeds and other instruments in writing and authorized by law to be acknowledged.

A notary's jurisdiction extends to any part of the state of Arkansas during his or her 10-year term and is not limited to the notary's county of commission. However, Arkansas notaries may not notarize documents in another state under their Arkansas seal of office.

Personal, physical appearance before the notary is required. This means the signer(s) and the notary public are physically close enough to see, hear, communicate, and give identification credentials to each other without reliance on an electronic device such as a telephone, computer, video camera, or facsimile machine.

Identification

The notary's greatest responsibility is to be certain of the identity of each person whose signature he or she will notarize. It is advised to require some form of photographic identification, unless the notary personally recognizes the person whose signature is to be notarized.

Nothing is specified in Arkansas law concerning "acceptable" identification. However, it is your responsibility to ensure that the identification presented to you satisfactorily proves the identity of the person appearing before you at the time of notarization. A government issued identification card that includes the signer's picture and signature is recommended.

Notarial Acts

Oaths

An oath is a formal statement by which a person appearing before a notary swears (or affirms):

1. That the statement or group of statements is the truth; or
2. That the testimony he or she will give will be the truth; or
3. That he or she will faithfully perform the duties of a corporate office.

Sample oath to administer to corporate officials:

State of Arkansas

County of _____

"I, _____, hereby enter into the position of _____ on behalf of _____ corporation. I affirm that I will fulfill these duties to the best of my ability and perform in accordance with the law and in the best interest of the corporation."

Signature of Person Taking the Oath

[Seal of Office]

Signature of Notary

Acknowledgments

An acknowledgment is a formal statement by a person that a document is his or her own act. The act of the notary who takes an acknowledgment is called an acknowledgment statement. A proper certificate of acknowledgment should include a statement of the date for which his or her commission expires.

Suggested Form for Acknowledgement:

State of Arkansas

County of _____

On this the _____ day of _____, 20____, before me, (name of notary), the undersigned notary, personally appeared (name(s) of signer(s)) known to me (or satisfactorily proven) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

[Seal of Office]

Signature of Notary Public

My Commission expires: _____

Affidavits

An affidavit is simply a sworn, written statement of facts to which some person (the “Affiant”) swears or affirms before an officer authorized to administer oaths. It must clearly state the name of the person swearing (or affirming) that the statements are true and complete. The notary witnesses the signature and identity of the affiant.

Suggested Form for Affidavits:

I, _____ (Name of Affiant) being duly sworn, depose and say as follows:

1. Written statement.
2. Written statement.
3. Written statement.

Signature of Affiant

State of Arkansas

County of _____

Acknowledged before me, this _____ day of _____, _____.

Signature of Notary Public

[Seal of Office]

My commission expires: _____

Depositions

Arkansas court rules require all depositions to be attested by a certified court reporter. If this is not done, the deposition will not be accepted by Arkansas courts. Notaries who are not court reporters should not accept depositions as an act of their notarial office.

A deposition is a form of oral testimony, transcribed for use in legal proceedings. A notary may have two functions in connection with depositions. First, the notary may be asked to take the witness' oath to tell the truth. Second, after the deposition has been transcribed, the notary may be asked to certify that the written transcript is a complete and accurate record of what was said at the deposition.

Photocopies

A notary may certify a photocopy as being a true and perfect copy of the original document, provided the document is not a vital record or a public record.

Examples of Vital Records:

- Birth certificates
- Death certificates

Examples of Public Records:

- Marriage license
- Divorce decree
- Court order

A notary may NOT certify a photocopy of any vital record or public record.

The notary must supervise the photocopying, or make the copy him or herself. The notary may keep a copy for his or her records to later ascertain that the certified document has not been altered.

Sample wording for certifying photocopies:

State of Arkansas

County of _____

"I, [Name of Notary], certify this is a true and perfect copy of the original document
[insert type of document] presented to me on this _____ day of _____, 20 ____ .

Notary's Signature

[Seal of Office]

My commission expires: _____

Using a Mark to Sign

If the signer of the document uses a mark instead of a signature, the mark is considered legal on a notarized document when:

- The mark is made in the presence of the notary
- The mark is witnessed by at least one (1) disinterested person
- The notary public writes below the signature done by mark:
"Mark affixed by (Name of signer by mark) in the presence of
(name(s) of witnesses)"

Physically Unable to Sign

If the person who is supposed to sign the document cannot physically sign or make a mark on a document to be notarized, a disinterested third party may sign the name of the original signer if:

- The original signer directs the disinterested third party to sign the name of the principle in the presence of two (2) disinterested witnesses and the notary
- Each disinterested witness signs his or her name beside the signature in the presence of the notary
- The notary public writes below the signature:
"Signature affixed by (name of third party) at the direction and
in the presence of (name of principal unable to sign or make
a mark) and also in the presence of (names of two witnesses); and
- The notary public properly notarizes the completed notarial certificate.

Proper Notarization Procedures

Before Notarizing A Document

Before a notary begins the process of notarizing the document, the notary needs to be conscious of the situation. In addition to verifying the identity of the signer(s), the notary needs to check that the signer(s):

1. Understand the nature of the document they are about to sign.
2. Appear to be acting of their own free will
3. Use letters or characters that are understood by both the signer(s) and notary
4. Communicate directly with the notary in a language understood by both the client(s) and notary

Complete Notarial Certificate

The notarial certificate is the part of the document that the notary public completes. This is typically found at the conclusion of the document and appears under the signature lines for the signer(s) of the document. This is often referred to as the acknowledgement statement.

In order for a notarial certificate to be considered complete, it must include the following information:

1. The official signature of the notary public as on file with the Secretary of State's Office
2. The seal of the notary public in compliance with Arkansas notary law
3. The venue or location of the notarial act. This is where the notary and document signer(s) were physically located at the time of notarization. This county is not dependent on the notary's county of commission and often may be a county different than the notary's county of commission.

Example:

State of Arkansas

County of [Where You're Witnessing The Signature]

4. The date of the notarial act.

Mistakes with the acknowledgement statement

In an acknowledgement statement, a notary is verifying who is signing the document and when and where the signing takes place. When completing an acknowledgment statement, you must witness the signature.

The rest of the certificate states your credentials as a notary public, including your county of commission, your commission expiration date, your official notary signature and your seal of office.

Example:

Signature you personally witness

Printed name of signature

State of Arkansas

County of _____

On this the _____ day of _____, 20____, before me, (*name of notary*), the undersigned notary, personally appeared (*name(s) of signer(s)*) known to me (or satisfactorily proven) to be the person whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/ they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Signature of Notary Public _____ Jane Doe

My commission expires: _____

(Print Commission Expiration Date)

[Seal of Office]

Incomplete Notarial Certificates

It is imperative that a notary public do their job properly and this includes following the law. Not properly completing the notarial certificate can cause harm to the signer(s) of the document. The following instances would render a notarial certificate incomplete:

1. The information included within the notarial certificate is known or believed by the notary to be false
2. The notary places their signature or seal on a notarial certificate that is incomplete.
3. The official signature and/or seal of the notary is placed on the document at a time other than when the document is signed by the client in the physical presence of the notary public.
4. A notary places their seal and/or signature on a document before it is signed by the client(s).

The notary's signature and stamp are the finishing touches, not the complete notarization. There will always need to be a certificate of acknowledgement that explains what happened at the time of notarization: when, where, & who.

Correct:

State of Arkansas

County of _____

Subscribed and sworn to
before me on this ____ day of _____,
20____.

Jane Doe
Signature of Notary Public
[APPLICATION OF SEAL]

Incorrect:

Jane Doe
Signature of Notary Public
[APPLICATION OF SEAL]

It is not required that the certificate contain the printed name of the signer, but it is advised, especially if multiple people are required to sign the same document.

When the notarial certificate includes the name of the signer, you, as the notary, are verifying that this person personally appeared before you at the time of notarization.

Example:

Signature of signer #1

Signature of signer #2

State of Arkansas

County of _____

Subscribed and sworn to before me on this-____ day of _____, 20 ____ by
(name of signer #1) and (name of signer #2).

Signature of Notary Public _____ Jane Doe _____

My commission expires: _____
(Print Commission Expiration Date)

[Seal of Office]

If multiple people must sign the same document, but cannot both appear before the same notary at the same time, each person who signs the document will need a separate acknowledgment certificate, with identical wording, for the notary who witnesses their individual signatures.

Note: Any information in the notary's certificate should be completed by the notary before the certificate is signed and sealed by the notary. This prevents somebody from inserting false material into the certificate after it has left the notary's possession.

Notario Publico

In 2005, the Arkansas General Assembly adopted legislation regarding notaries who advertise as “notario,” “notario publico,” or other similar terms. Those notaries are required to include in the advertisement the following notice in both English and Spanish:

“I am not a licensed attorney and cannot engage in the practice of law. I am not a representative of any governmental agency with authority over immigration or citizenship and I cannot offer legal advice or other assistance regarding immigration.”

(See A.C.A. § 4-109-101 et seq., included in the notary law at the back of this book.)

Notarial Acts for a Corporation:

A corporate employee may notarize documents to which his/her employer is a party, as long as he/she is not personally involved or acting as a representative of the corporation.

However, if the notary is personally involved or acting as a representative of a corporation which is a party to the document, the notary may not perform any notarial acts concerning that document.

Fees

Arkansas notaries are not required to charge for their services. If a notary does charge, the amount must be reasonable and disclosed to and agreed upon by both the client(s) and the notary prior to the notarial act taking place. (See A.C.A. § 21-6-309)

Penalty/Revocation:

A notary public violating Arkansas law in respect to witnessing signatures shall be guilty of a Class A misdemeanor, punishable by a fine of up to \$1,000 or up to one (1) year in jail. In addition, his or her commission shall be revoked and he or she cannot be recommissioned for ten (10) years.

The Secretary of State’s Office may investigate possible violations upon a signed complaint from any person (See. A.C.A. § 21-14-112). Any complaint regarding a notary must be made in writing to the Secretary of State at the below address. A copy of the document containing the notarization in question should be included with the written complaint.

Arkansas Secretary of State
Legal Division
State Capitol, Suite 256
500 Woodlane Street
Little Rock, Arkansas 72201-1094

The Secretary of State does not have the authority to investigate criminal matters, such as forgery or fraud. Those who wish to proceed with investigating criminal violations by a notary should contact their own attorney to pursue the matter in the judicial system.



Electronic Notarizations

Electronic Notarizations

What is an electronic notary public?

An electronic notary public (eNotary) is a notary public commissioned by the Secretary of State who has been granted the capability of performing electronic notarial acts. Any Arkansas notary public who has been commissioned by the Arkansas Secretary of State as a traditional notary public and is in good standing with the Secretary of State is eligible to become an electronic notary public.

What is electronic notarization?

This refers to notarizing a document by means of an electronic signature — using an electronic process to “sign” an electronic document.

Why eNotary?

Electronic Notarization provides even more security to a document than a traditional notarization. Because it requires the notary to log in to a secure site, the notary’s signature cannot be forged, or the seal stolen. Many electronic notary solutions involve public key infrastructure (PKI), which utilizes complex mathematical algorithms to protect from hacking. And the documents are electronically sealed so any alteration is noticeable, helping prevent fraud.

How is this done in Arkansas?

Any Arkansas notary public in good standing is eligible to apply for an electronic notary commission.

All applicants for an electronic notary commission must complete eNotary specific training through the Arkansas Secretary of State’s Office and pass a required exam.

You will find a list of approved solution providers on the Secretary of State’s website by going to the Electronic Notary link. After you have received your certificate of electronic commission from the Secretary of State’s Office, you may apply to the solution provider of your choice. Research the companies carefully to see which best suits your needs.

Each solution provider will have individual requirements and procedures. When you have registered with a solution provider, that company will set up your electronic signature and seal.

Term and Renewal

The commission for electronic notarization runs concurrently with the traditional commission, expiring on the same date. The date the electronic notary applicant successfully passes the required exam is the date upon which their electronic notary

commission will begin. The term of the electronic notary commission shall not extend past the expiration date of the surety bond for the traditional notary public commission. Renewal of an electronic commission follows the same process as the original application: you must be a notary in good standing, apply to the Secretary of State's Office, complete training and an exam through the Secretary of State's Office, and select an electronic notary solution provider.

Refresher training required

Electronic notaries must complete training through the Secretary of State's Office every two (2) years to remain current on requirements, best practices and protocols. Your solution provider is aware of these requirements, and the Secretary of State's Office will certify completion of training to the solution provider.

Beginning one month before that two-year training date, you will begin receiving notifications from the solution provider that you must complete refresher training through the Secretary of State's Office. If, by one (1) month after the two-year date, a notary has not completed training, the solution provider will suspend the notary's access to the electronic system. The suspension will remain in effect until the notary has completed training.

The notary's journal

You are encouraged to maintain a notarial journal. Some solution providers include features that automatically create a journal entry as you complete the notarial certificate; others have optional journaling. Remember that your notary journal is admissible as evidence in Arkansas courts and can be valuable protection for you.

Notarization fees

Electronic Notaries are not required to charge for their services. If a fee is charged, it must be reasonable and agreed upon by both the notary and the document signer(s) prior to the notarial act taking place.

What is the process for electronic notarization?

This will depend on the solution provider you choose. Some offer signature pads. Others are done by keyboard. Some solutions are restricted to computers, while others work across operating systems and platforms, so you can use your mobile device.

Regardless of the means and solution provider you choose, remember that the client must sign the document in your presence. You must physically witness any signature before you can legally notarize it.

Physical Proximity

It is not legal for a document to be electronically notarized in a “remote” manner. The signer must physically appear before the electronic notary. This means the signer(s) and the electronic notary are physically close enough to see, hear, communicate and give identification credentials to each other without reliance on an electronic device such as a telephone, computer, video camera or facsimile machine.

An electronic notary public shall not perform an electronic notarial act if the document signer(s) do not appear in person before the electronic notary at the time of notarization.

Notarial Certificate is required

Standard notary practices still apply to electronic notarizations. Simply adding an electronic signature to a document is not a notarization. The document must include a section stating what you are doing: a certificate of affidavit, etc. Your solution provider may have options including prepared certificates to add to a document for signing. Please review pages 14-17 of this handbook for more information.

Verification of identity is required

You are also still required to verify the signer’s identity.

The electronic notary public shall not under any circumstances base identification merely upon familiarity with the electronic signature of the signer or an electronic verification process that authenticates the electronic signature of the signer when the signer is not in the physical presence of the electronic notary public.

Change of Information

Specific personal information is filed with the Secretary of State’s Office when you are commissioned as an enotary, including your name, county of commission, physical residential address and, if you’re an out-of-state notary, your physical work address. If any of that information changes, you are required to notify the Secretary of State’s Office within thirty (30) days of the change. The amendment to the notary’s record is done through a web portal on the Secretary of State’s Business and Commercial Services website at <http://bcs.sos.arkansas.gov>.

When you apply for an electronic commission, you must provide your primary and a secondary e-mail address. If either e-mail address changes, you must notify the Secretary of State’s office within thirty (30) days of that change.

Various solution providers will have individual requirements for updating personal information. You must complete the requirements of your solution provider as well as notifying the Secretary of State's Office of any changes of personal information.

Denial or revocation of electronic commission

The liability, sanctions and remedies for the improper performance of electronic notarial acts are the same under law for the improper performance of a regular notarial act. Your electronic commission is contingent upon your being a notary in good standing. If your traditional paper commission is revoked for any reason, your electronic commission will be simultaneously revoked.

The procedures for investigation and revocation of an electronic commission are identical to the procedures of a traditional paper commission.

If a notary's commission is revoked, the electronic notary may be required by law enforcement or the courts to disclose access information used to affix their electronic seal and/or signature.

If a notary's commission is revoked, the Secretary of State's Office will notify the solution provider, and the solution provider will revoke the notary's access to the electronic system.

If a notary's commission is revoked, the notary may apply for a new commission after ten (10) years have passed since the revocation.

Glossary of Electronic Notary Terms

Applicant: A person applying to register as an Arkansas Electronic Notary Public.

Electronic: Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Electronic Document: Information that is created, generated, sent, communicated, received or stored by electronic means.

Electronic Notarial Act: An official act by a notary public performed with respect to an electronic document and using electronic means authorized by the Secretary of State.

Electronic Notarial Certificate: The portion of a notarized document that is completed by the notary public and bears the signature and official seal, official title, commission number, expiration date and all other information required in the notarial certificate of a traditionally notarized document.

Electronic Notary: A notary public in Arkansas who has registered with the Arkansas Secretary of State and possesses the capability of performing electronic notarial acts.

Electronic Notary Seal: Information within a notarized document that contains information about the notary public including their official name, jurisdiction of appointment, commission number, expiration date and any other information required on their seal of office used on paper documents.

Electronic Signature: An electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document.

Non-repudiation: The inability of the signer of an electronic document to deny his or her electronic signature without a factual basis.

Notary Public Electronic Signature: The form of electronic signature that has been approved by the Arkansas Secretary of State as an acceptable means for an electronic notary to affix his or her official signature to an electronic document that is being notarized.

Physical Proximity: The principal [document signer] and the notary public are physically close enough to see, hear, communicate and give identification credentials to each other without reliance on an electronic device such as a telephone, computer, video camera or facsimile machine.

Registration or register: A separate commission is issued to a notary public to perform electronic notarial acts under the laws of the State of Arkansas.

Solution Provider: A business entity (i.e. corporation, partnership, etc.) that has submitted an application, meets standards and has been approved by the Arkansas Secretary of State to offer electronic signature and electronic notarization options to duly commissioned electronic notaries public.

Tamper Evident: Any changes to an electronic document display evidence of the change.

Traditional notary public: A person commissioned by the Arkansas Secretary of State to perform notarial acts pursuant to A.C.A § 21-14-101 et seq.

Unique to the notary public/under the sole control: The device or system the notary uses to sign and seal the document must be accessible only by the notary, and attributed to the specific notary, not any other person or entity.

Arkansas Notary Law

21-14-101. Appointment and commission.

- (a) (1) The Secretary of State may appoint and commission an individual person as a notary public in this state.
- (2) Effective January 1, 2006, a notary public may perform notarial acts in any part of the state for a term of ten (10) years, beginning on the date of commission or the date of renewal of a commission issued by the Secretary of State.
- (b) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:
 - (1) That he or she is:
 - (A) Either a:
 - (i) Bona fide citizen of the United States; or
 - (ii) Permanent resident alien who shall file with his or her application a recorded Declaration of Domicile;
 - (B) A legal resident of Arkansas or an adjoining state and employed in the State of Arkansas;
 - (C) Eighteen (18) years of age or older; and
 - (D) Able to read and write English;
 - (2) The address of his or her business or residence in this state;
 - (3) That during the past ten (10) years, his or her commission as a notary public has not been revoked; and
 - (4) That he or she has not been convicted of a felony.
- (c) The application shall be sent to the Secretary of State with a fee of twenty dollars (\$20.00) for the notary public commission.
- (d) The Secretary of State may require the applicant to demonstrate that he or she has reviewed the law concerning notaries public and understands the duties of a notary public.
- (e) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides, or in the case of a resident of an adjoining state, in the county in Arkansas where employed, either:
 - (1) A surety bond executed by a surety insurer authorized to do business in Arkansas to the state for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or
 - (2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:

- (A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;
 - (B) Has previously deposited and thereafter maintains with the commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and
 - (C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.
- (f) (1) The obligation of an issuer of a bond required by subsection (e) of this section:
- (A) Shall be solely to the State of Arkansas; and
 - (B) Is solely for the benefit of the State of Arkansas.
- (2) Under no circumstances shall the aggregate liability of the issuer exceed the amount of the bond.
- (3) An employer shall not cancel a surety bond of a current or former employee even if the employer paid for the surety bond on behalf of the employee.
- (g) (1) Every notary public shall sign the following declaration in the presence of the circuit clerk for the county where the notary public resides or if a resident of another state, the circuit clerk for the county in Arkansas where employed:
- "I, (name of notary), solemnly swear or affirm that I have carefully read the notary laws of this state, and I will uphold the Constitutions of the United States and the State of Arkansas and will faithfully perform to the best of my ability all notarial acts in accordance with the law.
- (Signature of notary)_____
- Subscribed and sworn to before me (name of circuit clerk), Circuit Clerk for the County of (name of county), State of Arkansas, on this _____ day of _____, (year)
- (Signature of circuit clerk)"
- (2) The notary public shall send an executed and signed original of the declaration to the Secretary of State.
- (h) Effective January 1, 2006, the Secretary of State shall issue a commission number to each new notary public and to each notary public who renews his or her commission.

History. Acts 1874, No. 17, § 1, p. 61; C. & M. Dig., § 7969; Pope's Dig., § 10362; Acts 1981, No. 672, § 1; 1985, No. 966, § 1; A.S.A. 1947, § 12-1401; Acts 1989, No. 304, § 2; 2001, No. 1274, § 1; 2005, No. 2274, § 1; 2009, No. 1404, § 1; 2013, No. 492, § 1; 2017, No. 537, § 2

21-14-102. Change of residence.

- (a) (1) Upon receiving notification of a change of residency, the Secretary of State shall transfer a notary public's appointment and commission to the new county of residence in instances in which a person appointed and commissioned a notary public under § 21-14-101 changes residence to a county within this state other than the county where the notary public resided on the date of commission.
- (2) Upon receiving notification of a change in place of employment, the Secretary of State shall transfer a notary public's appointment and commission to the new county of employment in the case of a resident of an adjoining state changing his or her place of employment to a county within this state other than the county where the notary public was employed on the date of commission.
- (b) The original bond or certified copy of the original bond from the original county of residence shall also be filed by the notary public in the new county of residence or if the notary public is a resident of an adjoining state, in the new county of employment in Arkansas.

History. Acts 1983, No. 21, § 1; 1985, No. 966, § 2; A.S.A. 1947, § 12-1401.1; Acts 2005, No. 2274, § 1; 2013, No. 492, § 2.

21-14-103. Change in personal information.

- (a) If any notary public has a change in his or her mailing address or status in life that alters the information on record with the Secretary of State and the circuit clerk for the county where the notary public resides or, if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed, the notary public shall be responsible for providing that change of information to the Secretary of State and the circuit clerk within thirty (30) calendar days of the change.
- (b) If the change in status involves a court order, the notary public shall be responsible for providing the Secretary of State with a certified copy of the court order within thirty (30) calendar days of the filing of the court order with the clerk.
- (c) If the notary public marries and the notary public's name changes, a certified copy of the marriage certificate shall be delivered to the office of the Secretary of State and the circuit clerk for the county where the notary public resides or if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed.

History. Rev. Stat., ch. 104, § 6; C. & M. Dig., § 7975; Pope's Dig., § 10368; A.S.A. 1947, § 12-1410; Acts 2001, No. 1274, § 2; 2005, No. 2274, § 1; Act 537 of 2017 §2.

21-14-104. Power and authority generally.

The power and authority of a notary public shall be coextensive with the state for:

- (1) Swearing witnesses;
- (2) Taking affidavits;
- (3) Taking depositions under Rule 28 of the Arkansas Rules of Civil Procedure and Rule 28 of the Federal Rules of Civil Procedure; and
- (4) Taking acknowledgments of deeds and other instruments in writing and authorized by law to be acknowledged.

History. Acts 1901, No. 82, § 1, p. 148; 1905, No. 269, § 1, p. 687; C. & M. Dig., § 7970a; Pope's Dig., § 10363; A.S.A. 1947, § 12-1405; Acts 2013, No. 492, § 3.

21-14-105. Administration of oaths.

Each notary public shall have power to administer oaths in all matters incident to or belonging to the exercise of his or her notarial office.

History. Rev. Stat., ch. 104, § 3; C. & M. Dig., § 7970; Pope's Dig., § 10363; A.S.A. 1947, § 12-1403.

21-14-106. Acknowledgments and authentications.

(a) A notary public may:

- (1) Take the proof or the acknowledgment of all instruments of writing relating to commerce and navigation;
- (2) Receive and authenticate acknowledgments of deeds, letters of attorney, and other instruments of writing;
- (3) Make declarations and protests; and
- (4) Certify under his or her official seal the truth of all matters and things done by virtue of his or her office.

(b) A notary public may supervise the making of a photocopy of an original document and attest that the document is a copy if the document is not:

- (1) A vital record in this state, another state, a territory of the United States, or another country; or
- (2) A public record, if a copy can be made by the custodian of the public record.

History. Rev. Stat., ch. 104, § 4; C. & M. Dig., § 7973; Pope's Dig., § 10366; A.S.A. 1947, § 12-1404; Acts 2001, No. 1274, § 3; 2005, No. 2274, § 2

21-14-107. Signature — Seal.

- (a) (1) At the time of notarization, the notary public shall sign his or her official signature in blue or black ink on every notary certificate.
- (2) The official signature is the signature on file with the Secretary of State at the time of signing.
- (3) A notary public may refuse to perform a notarial act for any reason, including when the principal:

- (A) Does not appear to understand the nature of the transaction that requires the notarial act;
 - (B) Does not appear to be acting of his or her own free will;
 - (C) Lacks the ability to sign a notarial document using letters or characters of a language that is understood by the notary public; or
 - (D) Is not able to communicate directly with the notary public in a language understood by the principal and the notary public.
- (4) (A) A signature by mark on a notarial document is legal for the purposes of executing the notarial document if the mark is:
- (i) Made by a person who at the time of signature lacks the ability to write or sign his or her name; and
 - (ii) Witnessed by at least one (1) disinterested person.
- (B) The notary public shall write below a signature by mark:
 “Mark affixed by (Name of signer by mark) in the presence of (name(s) of witnesses).”
- (5) When a principal is physically unable to sign or make a mark on a notarial document, a disinterested third party may sign the name of the principal if:
- (A) The principal directs the disinterested third party to sign the name of the principal in the presence of two (2) disinterested witnesses;
 - (B) The disinterested third party signs the name of the principal in the presence of the notary public, the principal, and the disinterested witnesses;
 - (C) Each disinterested witness signs his or her own name beside the signature;
 - (D) The notary public writes below the signature:
 “Signature affixed by (name of third party) at the direction and in the presence of (name of principal unable to sign or make mark) and also in the presence of (names of two witnesses)”; and
 - (E) The notary public notarizes the required notarial certificate.
- (b) (1) Under or near a notary public’s official signature on every notary certificate, the notary public shall provide a seal of his or her office in blue or black ink, which shall be either a rubber stamp seal or a seal embosser. The seal shall be clear and legible and capable of photographic reproduction.
- (2) The seal shall include:
- (A) The notary public’s name exactly as he or she writes his or her official signature;
 - (B) The name of the county where the notary public’s bond is filed;
 - (C) The words “notary public” and “Arkansas”;
 - (D) The date upon which the notary public’s commission expires; and
 - (E) The notary public’s commission number issued by the Secretary of State if the notary public has been issued a commission number.
- (c) A notary seal shall not include the Seal of the State of Arkansas or an outline of the state.
- (d) The seal and certificate of the notary public commission are the exclusive property of the notary public and must be kept in the exclusive control of the notary public.

- (e) The seal and certificate of the notary public commission shall not be surrendered to an employer upon termination of employment, regardless of whether or not the employer paid for the seal or for the commission.
- (f)(1)(A) For a notarial act involving a document, the notary public shall complete a notarial certificate that is worded in English.
- (B) The notarial certificate shall include:
 - (i) The official signature of the notary public as described in subsection (a)(1) of this section;
 - (ii) The official seal of the notary as described in subdivision (b)(1) of this section;
 - (iii) The venue of the notarial act, including the name of the state and county; and
 - (iv) The date of the notarial act.
- (2) A notarial certificate is incomplete if:
 - (A) The information within the notarial certificate is known or believed by the notary to be false;
 - (B) A notary affixes an official signature or seal on a notarial certificate that is incomplete under subsection (a) or subsection (b) of this section;
 - (C) An official signature or seal on a notarial certificate is known to be executed at a time when the principal or signer was not present; or
 - (D) A signed or sealed certificate is executed with the understanding that the notarial certificate will be completed or attached to a document outside the presence of the notary public.

History. Rev. Stat., ch. 104, § 7; C. & M. Dig., § 7976; Pope's Dig., § 10369; Acts 1981, No. 672, § 2; A.S.A. 1947, § 12-1402; Acts 2001, No. 1274, § 4; 2005, No. 1962, § 104; 2005, No. 2274, § 2; 2013, No. 492, § 4; Act 537 of 2017, §3.

21-14-108. Expiration date of commission.

- (a) (1) Every notary public shall attach to any certificate of acknowledgment or jurat to an affidavit that he or she may make a statement of the date on which his or her commission will expire.
- (2) No acknowledgment or other act of a notary public shall be held invalid on account of the failure to comply with this section.
- (b) No notary public shall perform any official act after the expiration of his or her commission as evidenced by his or her certificate.
- (c) Sixty (60) calendar days prior to the expiration of a notary public's commission, he or she shall submit to the Secretary of State a new application along with the fee of twenty dollars (\$20.00) for the renewal of the commission.
- (d) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or if the notary public is a resident of an adjoining state, in the office of the recorder of deeds for the county in Arkansas

where employed, either:

- (1) A surety bond executed by a surety insurer authorized to do business in Arkansas for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or
- (2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:
 - (A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;
 - (B) Has deposited and maintains with the commissioner securities in the sum of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and
 - (C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

History. Acts 1891, No. 35, §§ 1, 2, p. 57; C. & M. Dig., §§ 7971, 7972; Pope's Dig., §§ 10364, 10365; A.S.A. 1947, §§ 12-1406, 12-1407; Acts 2001, No. 1274, § 5; 2005, No. 2274, § 2, Act 570 of 2015.

21-14-109. Performance of duties for corporation.

- (a) It shall be lawful for any notary public who is a stockholder, director, officer, or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee, or agent of the corporation, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes, and other negotiable instruments which may be owned or held for collection by the corporation.
- (b) It shall be unlawful for any notary public to take the acknowledgment of an instrument executed by or to a bank or other corporation of which he or she is a stockholder, director, officer, or employee where the notary public is a party to the instrument, either individually or as a representative of the corporation, or to protest any negotiable instrument owned or held for collection by the corporation, where the notary public is individually a party to the instrument.

History. Acts 1953, No. 331, § 1; A.S.A. 1947, § 12-1411.

21-14-110. Admissibility of acknowledged instruments.

All declarations and protests made and acknowledgments taken by a notary public

and certified copies of the notary public's records and official papers shall be received as evidence of the facts therein stated in all the courts of this state.

History. Rev. Stat., ch. 104, § 8; C. & M. Dig., § 7977; Pope's Dig., § 10370; A.S.A. 1947, § 12-1409.

21-14-111. Unlawful act — Penalty.

- (a) It is unlawful for any notary public to witness any signature on any instrument unless the notary public either:
 - (1) Witnesses the signing of the instrument and personally knows the signer or is presented proof of the identity of the signer; or
 - (2) Recognizes the signature of the signer by virtue of familiarity with the signature.
- (b) Any notary public violating this section shall be guilty of a Class A misdemeanor.
- (c) For purposes of this section, "personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable certainty.

History. Acts 1989, No. 304, § 3; 2001, No. 1274, § 6.

21-14-112. Denial or revocation of notary public commission.

- (a) The Secretary of State may deny the application of any person for appointment or reappointment or revoke the commission of any notary public during the notary public's term of appointment if the notary public:
 - (1) Submits an application for commission and appointment that contains substantial and material misstatement or omission of fact;
 - (2) Is convicted of official misconduct under the provisions of § 21-14-111;
 - (3) Knowingly uses false or misleading advertising in which the notary public represents that the notary public has powers, duties, rights, or privileges that the notary public does not possess by law;
 - (4) Is found by a court of this state to have engaged in the unauthorized practice of law;
 - (5) Is found by a court to have improperly notarized documents according to the law;
 - (6) Is found by a court to have charged fees higher than allowed under § 21-6-309; or
 - (7) Fails to complete the requirements under § 21-14-101.
- (b) The Secretary of State may investigate a possible violation of this section upon a signed complaint from any person.
- (c) After a notary public receives notice from the Secretary of State that the notary public's commission has been revoked, unless the revocation has been enjoined, the notary public shall immediately send or have delivered to the Secretary of State:

- (1) The notary public's journal of notarial acts;
 - (2) All other papers and copies relating to the notary public's notarial acts; and
 - (3) The notary public's official seal.
- (d) A person whose notary public commission has been revoked pursuant to the provisions of this section may subsequently apply for commission and appointment as a notary public after ten (10) years have elapsed from the date of the revocation.

History. Acts 1999, No. 1187, § 1; 2005, No. 2274, § 3; 2013, No. 492, § 5.

21-14-113. Notice of revocation — Appeal.

- (a) If the Secretary of State revokes a notary public commission, he or she shall serve the notary public with written notice that explains the reason or reasons for the revocation.
- (b) (1) The notary public may appeal the revocation to the Pulaski County Circuit Court within thirty (30) days after service of the notice of revocation is perfected.
 (2) The notary public shall appeal by petitioning the court to set aside the revocation and attaching to the petition copies of the Secretary of State's Certificate of Revocation and the written notice of revocation.
- (c) The court may summarily order the Secretary of State to reinstate the notary public or take other action the court considers appropriate.
- (d) The court's final decision may be appealed as in other civil proceedings.

History. Acts 1999, No. 1187, § 2.

21-14-114. Rules and regulations.

The Secretary of State may promulgate rules and regulations necessary to administer this chapter.

History. Acts 2005, No. 2274, § 4.

21-14-201. Definitions.

As used in this subchapter:

- (1) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of a manual signature of a notary public;
- (2) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the seal of office of a notary public, containing the information described in § 21-14-107(b)(2); and
- (3) (A) "Commercial document" means any instrument, certificate, report, billing, affidavit, or other document which is required to bear a notary certificate by the terms of a purchase order, contract, bid specification, construction standard, testing standard, or other commercial standard, specification, or practice.

(B) The term “commercial document” shall not include any deed or other instrument in writing for the conveyance of any real estate or by which any real estate may be affected in law or equity.

History. Acts 1995, No. 200, § 1.

21-14-202. Use of facsimile signatures and seals authorized —Filing required.

Any notary public may affix a notary certificate bearing the notary public’s facsimile signature and facsimile seal in lieu of the notary public’s manual signature and rubber or embossed seal in blue or black ink on a commercial document, after filing with the Secretary of State:

- (1) The notary public’s manual signature certified by the notary public under oath;
- (2) A general description of the types of commercial documents to be notarized by facsimile signature and seal;
- (3) The name and manual signature of any other person or persons signing the commercial documents by manual or facsimile signature; and
- (4) The written consent of any other person or persons signing the commercial documents to the use of the notary public’s facsimile signature and facsimile seal on the commercial documents.

History. Acts 1995, No. 200, § 1; 2013, No. 492, § 6.

21-14-203. Expiration and resignation.

- (a) Any filing by a notary public with the Secretary of State under the terms of this subchapter shall remain in effect until the earlier of:
- (1) The date on which the notary public’s commission in effect on the date of filing expires;
 - (2) The filing is cancelled by the notary public by subsequent written filing with the Secretary of State; or
 - (3) The filing is cancelled pursuant to § 21-14-113.
- (b) (1) A notary public shall send a signed letter of resignation to the Secretary of State and shall return his or her certificate of notary public commission when the notary public:
- (A) Wishes to resign his or her commission;
 - (B) Does not maintain legal residence or employment in this state during the entire term of appointment; or
 - (C) Is required to resign pursuant to a court order of this state or any other state.
- (2) The resigning notary public shall destroy his or her official seal immediately upon resignation.

History. Acts 1995, No. 200, § 1; 2001, No. 1274, § 7.

21-14-204. Duties of notary public.

A notary public shall have the same duties when affixing a notary certificate with the notary public's facsimile signature and facsimile seal on a commercial document as when signing a notary certificate with the notary public's manual signature and rubber or embossed seal, and nothing in this subchapter shall remove any duty or responsibility imposed on a notary public by law, except as specifically provided in this subchapter.

History. Acts 1995, No. 200, § 1.

21-14-205. Force and effect

Notary certificates which are signed by facsimile signature and sealed by facsimile seal under the provisions of this subchapter shall have the same force and effect as notary certificates signed by manual signature and bearing a rubber or embossed seal for all purposes.

History. Acts 1995, No. 200, § 1.

21-6-309. Notaries public [fees].

(a) A notary public authorized to perform notarial acts in this state may charge and collect a fee for a notarial act if the fee:

- (1) Is a reasonable amount as determined by the notary public; and
- (2) The fee is disclosed to and agreed upon by the client or principal before executing the notarial act.

(b)(1) A notary public who knowingly charges, demands, or receives any fees not provided by law, or who charges, demands or receives a fee amount that violates subsection (a) of this section, is guilty of a violation.

(2) Upon conviction, the notary public shall be fined no less than one hundred dollars (\$100) for each offense.

History. Acts 1923, No. 142, §§ 1, 2; Pope's Dig., §§ 5685, 5686; Acts 1969, No. 155, § 1; A.S.A. 1947, §§ 12-1733, 12-1739; Acts 1989, No. 304, § 1, Act 570 of 2015; Act 537 of 2017 § 1.

21-14-301. Title

This subchapter shall be known and may be cited as the “Arkansas Electronic Notary Public Act”.

21-14-302. Definitions.

As used in this subchapter:

- (1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- (2) “Electronic document” means information that is created, generated, sent, communicated, received, or stored by electronic means;
- (3)(A) “Electronic notarial act” means an official act by a notary public performed with respect to an electronic document and using electronic means authorized by the Secretary of State;
- (B) “Electronic notarial act” includes:
 - taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument
- (4) “Electronic notarial certificate” means the portion of a notarized electronic document that:
 - (A) Is completed by the notary public;
 - (B) Bears the following of the notary public:
 - (i) Signature or official electronic seal;
 - (ii) Official title;
 - (iii) Commission number;
 - (iv) Commission expiration date; and
 - (v) All required information regarding the date and place of the electronic notarial act; and
 - (C) States the facts attested to or certified by the notary public in an electronic notarization;
- (5) “Electronic notary seal” or “official electronic seal” means information within a notarized document that includes:
 - (A) The following information about the notary public:
 - (i) Name;
 - (ii) Jurisdiction of appointment;
 - (iii) Commission number; and
 - (iv) Commission expiration date; and
 - (B) Information that generally corresponds to dates in notary public seals utilized on paper documents under § 21-14-107;
- (6) “Electronic notary public” means a notary public who has registered with the Secretary of State and possesses the capability of performing electronic

notarial acts;

- (7) "Electronic signature" means an electronic sound, symbol, or process attached to an electronic document and executed or adopted by a person with the intent to sign the electronic document;
- (8) "Non-repudiation" means the inability of the signer of an electronic document to deny his or her electronic signature without a factual basis;
- (9) "Notary public electronic signature" means the forms of electronic signatures that have been approved by the Secretary of State as an acceptable means for an electronic notary to affix his or her official signature to an electronic record that is being notarized;
- (10) "Physical proximity" means the principal and the notary public are physically close enough to see, hear, communicate, and give identification credentials to each other without reliance on an electronic device such as a telephone, computer, video camera, or facsimile machine;
- (11) "Registration" or "register" means a separate commission to perform electronic notarial acts under the laws of this state;
- (12) "Solution provider" means a business entity that has submitted an application, meets standards, and has been approved by the Secretary of State to offer electronic notarization solutions to duly commissioned electronic notaries public;
- (13) "Tamper-evident" means any changes to an electronic document that display evidence of the change;
- (14) "Traditional notary public" means a person commissioned by the Secretary of State to perform notarial acts under § 21-14-101 et seq.; and
- (15) "Unique to the electronic notary public or under sole control" means the device or system the notary uses to sign and seal the document that is accessible only by the notary, attributed to the notary, and not any other person or entity.

21-14-303. Appointment and commission.

A notary public who is appointed and commissioned by the Secretary of State as a traditional notary public and who is in good standing with the Secretary of State is eligible to become an electronic notary public.

21-14-304. Registration and application.

- (a)(1)(A) The Secretary of State shall require a notary public to register the capability to notarize electronically before performing an electronic notarial act.
- (B) The Secretary of State shall promulgate rules to enforce the requirement under subdivision (a)(1)(A) of this section.
- (2) A person who seeks to become an electronic notary public shall submit to the Secretary of State:
 - (A) An application stating the intent to become an electronic notary public on a form provided by the Secretary of State;
 - (B) An attestation that he or she has not been convicted of a felony; and
 - (C) A filing fee of twenty dollars (\$20.00).

- (b) An applicant shall:
 - (1) Successfully complete an approved training course provided by the Secretary of State; and
 - (2) (A) Pass an examination approved by the Secretary of State.
(B) An applicant may attend the exam up to two (2) times in a twelve-month period.
(C) If the applicant does not pass the examination during the time period in subdivision (b)(2)(B) of this section, he or she shall repeat the application process under this section.

21-14-305. Term and renewal.

- (a) The commission date of the electronic notary public shall begin on the date the person passes the examination under § 21-14-304.
- (b) The term of the electronic notary public shall not extend past the expiration date of the surety bond for the traditional notary public commission.
- (c) An electronic notary public shall every two (2) years of his or her commission:
 - (1) Complete a refresher training course offered and approved by the Secretary of State; and
 - (2) Remit to the Secretary of State evidence of successful completion of the course under subdivision (c)(1) of this section on a form provided by the Secretary of State.
- (d) The electronic notary public may submit an application for the renewal of his or her electronic notary commission to the Secretary of State no more than thirty (30) calendar days before the expiration of his or her electronic notary commission.
- (e) To renew an electronic notary commission, a person shall complete the procedure under § 21-14-304.

21-14-306. Form and manner of performing an electronic notarial act.

- (a) An electronic notarial act shall be executed through an approved solution provider.
- (b) When performing an electronic notarial act, an electronic notary public shall:
 - (1) Complete an electronic notarial certificate that shall include all information necessary in a paper-based notarization under § 21-14-107; and
 - (2)(A) Attach his or her electronic signature and seal to the certificate in a tamper-evident manner.
(B) Evidence of tampering may be used as proof by the Secretary of State to determine whether the electronic notarial act is valid or invalid.
- (c) The electronic signature of an electronic notary public is reliable if the electronic seal is:
 - (1) Unique to the electronic notary public;
 - (2) Capable of independent verification;

- (3) Retained under the sole control of the electronic notary public; and
 - (4) Attached to or associated with the electronic document in a tamper-evident manner.
- (d)(1) The electronic signature of an electronic notary public in combination with the electronic notary seal shall be used only for the purpose of performing an electronic notarial act.
- (2) The electronic notary public shall not disclose access information used to affix the electronic signature of the electronic notary public except when requested by:
- (A) Law enforcement;
 - (B) The courts; or
 - (C) An electronic document preparation and transmission vendor.
- (3) Control of security aspects remains under the sole control of the commissioned electronic notary public, and include without limitation:
- (A) Passwords;
 - (B) Token devices;
 - (C) Biometrics;
 - (D) Personal identification numbers; and
 - (E) Phrases.
- (e) The liability, sanctions, and remedies for the improper performance of electronic notarial acts are the same under the law for the improper performance of a notarial act performed by a traditional notary public underacts under §§ 21-14-111 - 21-14-113.

21-14-307. Physical proximity of signers of electronic documents required.

- (a) An electronic notary public shall not perform an electronic notarial act if the document signer does not appear in person before the electronic notary public at the time of the electronic notarial act.
- (b)(1) The methods for identifying a document signer for an electronic notarial act shall be the same as the methods required for a paper-based notarization under § 21-14-101 et seq.
- (2) The electronic notary public shall not under any circumstances base identification merely upon familiarity with the electronic signature of the signer or an electronic verification process that authenticates the electronic signature of the signer when the signer is not in the physical presence of the electronic notary public.

21-14-308. Fees.

- (a) An electronic notary public may charge and collect fees that are:
 - (1) Reasonably established by the electronic notary public; and
 - (2) Disclosed and agreed upon by the client and principal before the electronic notarial act occurs.
- (b)(1) An electronic notary public who knowingly charges, demands, or receives a fee not authorized by law or who charges, demands, or receives a fee

- greater than provided under this section is guilty of a violation.
- (2) Upon conviction, he or she shall be fined in a sum not less than one hundred dollars (\$100) for each offense.

Use of “Notario Publico”

4-109-101. Definitions.

As used in this chapter:

- (1) “Notary public” means a person duly appointed or commissioned under § 21- 14-101;
- (2) “Person” means:
 - (A)(i) An individual;
 - (ii) An organization;
 - (iii) An association;
 - (iv) A partnership;
 - (v) A limited liability company; or
 - (vi) A corporation; or
 - (B) Any combination of them; and
- (3) “Practice of law” means:
 - (A) Holding oneself out to the public as being entitled to practice law;
 - (B) Tendering or furnishing legal services or advice;
 - (C) Furnishing attorneys or counsel;
 - (D) Rendering legal services of any kind in actions or proceedings of any nature or in any other way or manner;
 - (E) Acting as if or in any other manner assuming to be entitled to practice law; or
 - (F) Advertising or assuming the title of lawyer or attorney, attorney at law, or equivalent terms in any language in such a manner as to convey the impression that one is entitled to practice law or to furnish legal advice, service, or counsel.

History. Acts 2005, No. 66, § 1.

4-109-102. Prohibited acts and practices.

It is a violation of this chapter for any person to advertise his or her services using the terms “notario” or “notario publico,” or any similar term, unless the person is a notary public as defined in this subchapter and the person complies with the notice requirements in §4-109-103.

History. Acts 2005, No. 66, § 1.

4-109-103. Notice required.

(a) Any notary public who chooses to use the term “notario” or “notario publico,” or any similar terms, in any advertisement shall include in the advertisement the following notice: “I AM NOT A LICENSED ATTORNEY AND CANNOT ENGAGE IN THE PRACTICE OF LAW. I AM NOT A REPRESENTATIVE OF ANY GOVERNMENTAL AGENCY WITH AUTHORITY OVER IMMIGRATION OR CITIZENSHIP AND I CANNOT OFFER LEGAL ADVICE OR OTHER ASSISTANCE REGARDING IMMIGRATION.”

(b) The notice shall be provided in both English and Spanish.

History. Acts 2005, No. 66, § 1.

4-109-104. Exceptions.

This chapter does not apply to an attorney licensed in this state.

History. Acts 2005, No. 66, § 1.

4-109-105. Enforcement.

A violation of this chapter is an unconscionable or deceptive act or practice, as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

History. Acts 2005, No. 66, § 1.

Mail Notary applications to:

**Arkansas Secretary of State
Business and Commercial Services Division
State Capitol, Suite 256 500 Woodlane Street
Little Rock, Arkansas 72201-1094**

Physical Address:

**Arkansas Secretary of State
Business and Commercial Services Division
1401 West Capitol Ave. Suite 250
Little Rock, Arkansas 72201**

**Phone: (501) 682-3409
Toll Free: (888) 233-0325
www.sos.arkansas.gov**



SECRETARY OF STATE JOHN THURSTON

Arkansas Secretary of State
Business and Commercial Services Division
1401 W. Capitol, Suite 250
Little Rock, Arkansas 72201-1094
501-682-3409 • 888-233-0325
www.sos.arkansas.gov/BCS/

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