

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; and
 - (3) That during the past ten (10) years, his or her commission as a notary public has not been revoked; and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.
- (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 care - fully 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.

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.

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.

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.

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 shall be the signature on file with the Secretary of State at the time of signing.

(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.

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.

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) Thirty (30) 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 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.

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.

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 non-acceptance 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;
- (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.

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.

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.

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.