

ARIZONA REVISED STATUTES

TITLE 11. COUNTIES

CHAPTER 3. COUNTY OFFICERS

ARTICLE 3.1. UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

11-487.02. Validity of electronic documents

A. if a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying this article.

B. If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

C. A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. a physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

History

Recent legislative history: Laws 2005, Ch. 109, § 1.

TITLE 14. TRUSTS, ESTATES AND PROTECTIVE PROCEEDINGS

CHAPTER 2. INTESTATE SUCCESSION AND WILLS

ARTICLE 5. WILLS

14-2518. Electronic will; requirements; interpretation

A. An electronic will must meet all of the following requirements:

1. Be created and maintained in an electronic record that is readable as text at the time of signing.

2. Contain the electronic signature of the testator or the testator's electronic signature made by some other individual in the testator's conscious presence and by the testator's direction.

3. Contain the electronic signatures of at least two persons, each of whom met all of the following requirements:

(a) Was physically present or electronically present with the testator when the testator electronically signed the will, acknowledged the testator's signature or acknowledged the will.

(b) Electronically signed the will within a reasonable time after the person witnessed the testator signing the will, acknowledging the testator's signature or acknowledging the will as described in subdivision (a) of this paragraph.

(c) If electronically present with the testator when the testator electronically signed the will, acknowledged the testator's signature or acknowledged the will, was physically located within the United States at the time of serving as a witness.

4. State the date that the testator and each of the witnesses electronically signed the will.

5. Contain a copy of a government-issued identification card of the testator that was current at the time of execution of the will.

B. Except as provided in this section and sections 14-2519, 14-2520, 14-2521, 14-2522 and 14-2523, any question raised about the force, effect, validity and interpretation of an electronic will shall be determined in the same manner as a question regarding a

paper will executed pursuant to section 14-2502.

C. This section does not apply to a trust except a testamentary trust created in an electronic will.

History

Recent legislative history: Laws 2023, Ch. 23, § 2.

14-2519. Self-proved electronic will

A. In addition to the requirements of section 14-2504, to be self-proved, an electronic will must meet all of the following requirements:

1. Contain the electronic signature and electronic seal of a notary public placed on the will in accordance with applicable law.

2. Designate a qualified custodian to maintain custody of the electronic will.

3. Before being offered for probate or being reduced to a certified paper original, be under the exclusive control of a qualified custodian at all times.

B. Notwithstanding section 14-2504, subsection B, the affidavits for an attested self-proving electronic will shall be in substantially the following form:

We, _____, _____ and _____, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn do declare to the undersigned authority that the testator signed and executed the instrument as the testator’s will and that he/she signed willingly, or willingly directed another to sign for him/her, and that he/she executed it as his/her free and voluntary act for the purposes expressed in this document, and that each of the witnesses, in the physical or electronic presence and hearing of the testator, signed the will as witness and that to the best of his/her knowledge the testator was at the time of signing eighteen years of age or older, of sound mind and under no constraint or undue influence.

Testator

Witness

Witness

The state of _____

County of _____

Subscribed, sworn to and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this ____ day of _____.

(seal)

(Signed)_____

(Official capacity of officer)

History

Recent legislative history: Laws 2023, Ch. 23, § 2.

**TITLE 33. PROPERTY
CHAPTER 4. CONVEYANCES AND DEEDS
ARTICLE 5. [REPEALED EFFECTIVE JULY 1, 2022]**

33-501. Repealed

33-502. Repealed

33-503. Repealed

33-505. Repealed

33-506. Repealed

33-507. Repealed

33-508. Repealed

**TITLE 38. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 3. CONDUCT OF OFFICE
ARTICLE 2. FEES**

38-411. Record of fees; inspection of fee book

Every officer entitled by law to charge fees for services shall keep a fee book and shall enter therein all fees charged for services rendered. The fee book shall at all times be subject to inspection by any person to ascertain the amount of fees therein charged.

History

Last legislative year: 1955.

38-412. Posting schedule of fees

Recorders, clerks of the superior courts, sheriffs, justices of the peace, constables and notaries public shall keep posted at all times in a conspicuous place in their respective offices a complete list of the fees they are allowed to charge.

History

Last legislative year: 1955.

38-413. Charging excessive fees; classification

A. If an officer demands and receives a higher fee than prescribed by law, or any fee not so allowed, such officer shall be liable to the party aggrieved in an amount four times the fee unlawfully demanded and received by him.

B. An officer who violates this section is guilty of a class 5 felony.

History

Last legislative year: 1978.

38-414. Collection of fees; failure to report amount collected; classification

A public officer who by law is required to make an abstract or statement of the amount of fees, compensation or percentage as earned or collected by him or his deputies, or as having been returned to him by any other officer or person, or who is required by law to keep or preserve such abstract or statement or to file it in some designated place, who knowingly fails or refuses to make or file such abstract or statement as required by law, is guilty of a class 2 misdemeanor and shall be removed from office by judgment of the court.

History

Last legislative year: 1978.

TITLE 41. STATE GOVERNMENT
CHAPTER 2. ADMINISTRATIVE OFFICERS
ARTICLE 1. REVISED UNIFORM LAW ON NOTARIAL ACTS (2018)

41-251. Definitions

In this chapter, unless the context otherwise requires:

1. “Acknowledgment” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

2. “Commission” means to authorize to perform notarial acts and the written authority to perform those acts.

3. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

4. “Electronic signature” means an electronic symbol, sound or process that is attached to or logically associated with a record and that is executed or adopted by an individual with the intent to sign the record.

5. “In a representative capacity” means acting as any of the following:

(a) An authorized officer, agent, partner, trustee or other representative for a person other than an individual.

(b) A public officer, personal representative, guardian or other representative, in the capacity stated in a record.

(c) An agent or attorney-in-fact for a principal.

(d) An authorized representative of another in any other capacity.

6. “Notarial act” or “notarization”:

(a) Means any act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under section 41-252.

(b) 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.

7. “Notarial officer” means a notary public or other individual who is authorized to perform a notarial act.

8. “Notary public” or “notary” means any individual who is commissioned to perform notarial acts by the secretary of state.

9. “Official stamp” means a physical image that is affixed to a tangible record or an electronic image that is attached to or logically associated with an electronic record.

10. “Person” means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

11. “Record” means information that is either:

(a) Inscribed on a tangible medium.

(b) Stored in an electronic or other medium and that is retrievable in perceivable form.

12. “Sign” means, with present intent to authenticate or adopt a record, either of the following:

(a) To execute or adopt a tangible symbol.

(b) To attach to or logically associate with the record an electronic symbol, sound or process.

13. “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

14. “Stamping device” means either of the following:

(a) A physical device that is capable of affixing to a tangible record an official stamp.

(b) An electronic device or process that is capable of attaching to or logically associating with an electronic record an official stamp.

15. “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

16. “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

Laws 1989, 1st Reg. Sess., Ch. 107, § 1; Laws 1993, 1st Reg. Sess., Ch. 11, § 1; Laws 1997, 1st Reg. Sess., Ch. 254, § 1; Laws 1999, Ch. 230, § 1; Laws 2004, Ch. 54, § 1; Laws 2005, Ch. 25, § 1; Laws 2010, 2nd Reg. Sess., Ch. 313, § 4; Laws 2011, 1st Reg. Sess., Ch. 343, § 4; 2018 2nd Reg. Sess. Ch. 13, § 2, effective August 3, 2018; renumbered from A.R.S. § 41-311 by 2021 1st Reg. Sess. Ch. 66, § 9, effective July 1, 2022.

41-252. Authority to perform notarial acts

A. A notarial officer may perform a notarial act authorized by this article or by any law of this state other than this article.

B. A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer’s spouse is a party or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

C. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-253. Requirements for certain notarial acts

A. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

B. A notarial officer who takes a verification of a statement on oath or affirmation shall determine both of the following:

1. From personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

2. That the record that contains the statement verified is complete to the best of the notarial officer’s knowledge.

C. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

D. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item. Except as required under section 41-319, a notarial officer may not certify or attest a copy of a public record of this state.

E. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 47-3505, subsection B.

F. A notary public who performs a notarial act for an individual shall communicate with the individual through either of the following:

1. Directly in a language that both the notary public and the individual understand.

2. Indirectly through a translator who communicates directly with the notary public and the individual in languages that the translator understands.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-254. Personal appearance required

A. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

B. If a notarial act involves a translator under section 41-253, subsection F, the translator shall appear personally before the notary public.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-255. Identification of individual

A. A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the notarial officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

B. A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the officer can identify the individual:

1. by means of:

(a) An unexpired United States passport or a state-issued driver license or nonoperating identification license.

(b) An unexpired identification card issued by any branch of the United States armed forces.

(c) Another form of unexpired government identification issued by the United States, a state or a tribal government to an individual that contains the signature or a photograph and physical description of the individual and that is satisfactory to the notarial officer.

(d) An inmate identification card issued by the state department of corrections or federal bureau of prisons, if the inmate is in state or federal custody.

(e) An inmate identification card issued by a county sheriff, if the inmate is in the custody of the county sheriff.

2. By verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to the notarial officer or whom the notarial officer can identify on the basis of satisfactory evidence of identity pursuant to paragraph 1 of this subsection.

C. In addition to subsection B of this section, for the purposes of a real estate conveyance or financing, a notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual by means of either of the following:

1. An unexpired passport issued by a national government other than the United States government that is accompanied by an unexpired visa or other documentation issued by the United States government and that is necessary to establish the individual's

legal presence in the United States.

2. An unexpired identification card that is deemed acceptable by the United States department of homeland security to establish the individual's legal presence in the United States and that is accompanied by supporting documents as required by the United States department of homeland security.

D. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the notarial officer of the individual's identity.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-256. Authority to refuse to perform notarial acts

A. A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that either:

1. The individual executing the record is competent or has the capacity to execute the record.

2. The individual's signature is knowingly and voluntarily made.

B. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by any law other than this article.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-257. Signature if individual unable to sign

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-258. Notarial act in this state

A. Any of the following may perform a notarial act in this state:

1. A notary public of this state.

2. A judge, clerk or deputy clerk of a court of record of this state.

3. An individual who is licensed to practice law in this state.

4. Any other individual who is authorized to perform the specific act by the laws of this state.

B. The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer listed in subsection A, paragraph 1, 2 or 3 of this section conclusively establish the authority of the notarial officer to perform the notarial act.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-259. Notarial act in another state

A. A notarial act performed in another state has the same effect under the laws of this state as if performed by a notarial officer of this state, if the act performed in that state is

performed by any of the following:

1. A notary public of that state.
2. A judge, clerk or deputy clerk of a court of that state.
3. Any other individual who is authorized by the laws of that state to perform the

notarial act.

B. The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in subsection A, paragraph 1 or 2 of this section conclusively establish the authority of the notarial officer to perform the notarial act.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-260. Notarial act under authority of federally recognized Indian tribes

A. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by any of the following:

1. A notary public of the tribe.
2. A judge, clerk or deputy clerk of a court of the tribe.
3. Any other individual who is authorized by the laws of the tribe to perform the

notarial act.

B. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in subsection A, paragraph 1 or 2 of this section conclusively establish the authority of the notarial officer to perform the notarial act.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-261. Notarial act under federal authority

A. A notarial act performed under federal law has the same effect under the laws of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by any of the following:

1. A judge, clerk or deputy clerk of a court.
2. An individual who is in military service or performs duties under the authority of military service and who is authorized to perform notarial acts under federal law.
3. An individual who is designated a notarizing officer by the United States department of state for performing notarial acts overseas.
4. Any other individual who is authorized by federal law to perform the notarial act.

B. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in subsection A, paragraph 1, 2 or 3 of this section conclusively establish the authority of the notarial officer to perform the notarial act.

History
2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-262. Foreign notarial act; definition

A. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the laws of this state as if performed by a notarial officer of this state.

B. If the title of office and indication of authority to perform notarial acts in a foreign state appear in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

C. The signature and official stamp of an individual holding an office described in subsection B of this section are prima facie evidence that the signature is genuine and that the individual holds the designated title.

D. An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

E. A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

F. For the purposes of this section, “foreign state” means a government other than the United States, a state or a federally recognized Indian tribe.

History
2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-263. Notarial act performed for remotely located individual; definitions

A. A remotely located individual may comply with section 41-254 by using communication technology to appear before a notary public.

B. A notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

1. The notary public has any of the following:

(a) Personal knowledge under section 41-255, subsection A of the remotely located individual’s identity.

(b) Satisfactory evidence of the identity of the individual by oath or affirmation from a credible witness appearing before and identified by the notary public under section 41-255, subsection B or this section.

(c) Satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing.

2. The notary public is able reasonably to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature.

3. The notary public, or a person acting on behalf of the notary public, creates an audiovisual recording of the performance of the notarial act.

4. For a remotely located individual located outside the United States, both of the

following apply:

(a) The record either:

(i) Is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States.

(ii) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States.

(b) The notary public has no actual knowledge that the act of making the statement or signing the record is prohibited by the foreign state in which the remotely located individual is located.

C. If a notarial act is performed under this section, the certificate of notarial act required by section 41-264 and the short form certificate provided in section 41-265 must indicate that the notarial act was performed using communication technology.

D. A short form certificate provided in section 41-265 for a notarial act subject to this section is sufficient if either of the following applies:

1. The form of certificate complies with rules adopted under subsection G, paragraph 1 of this section.

2. The certificate is in the form provided in section 41-265 and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

E. A notary public, a guardian, conservator or agent of a notary public or a personal representative of a deceased notary public shall retain the audiovisual recording created under subsection B, paragraph 3 of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection G, paragraph 4 of this section, the recording must be retained for a period of at least five years after the recording is made.

F. Before a notary public performs the notary public’s initial notarial act under this section, the notary public must notify the secretary of state that the notary public will be performing notarial acts with respect to remotely located individuals and identify the technologies the notary public intends to use. If the secretary of state has established standards under subsection G of this section and section 41-275 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

G. In addition to adopting rules under section 41-275, on or before July 1, 2022, the secretary of state shall adopt rules under this section regarding performance of notarial acts for remotely located individuals. The rules may:

1. Prescribe the means of performing a notarial act involving a remotely located individual using communication technology.

2. Establish standards for communication technology and identity proofing.

3. Establish requirements or procedures to approve providers of communication technology and the process of identity proofing.

4. Establish standards and a period for the retention of an audiovisual recording created under subsection B, paragraph 3 of this section.

H. Before adopting, amending or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state must consider:

1. The most recent standards regarding the performance of a notarial act with respect to a remotely located individual adopted by national standard-setting organizations and

the recommendations of the national association of secretaries of state.

2. Standards, practices and customs of other jurisdictions that have laws substantially similar to this section.

3. The views of governmental officials and entities and other interested persons.

I. For the purposes of this section:

1. “Communication technology” means an electronic device or process that:

(a) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound.

(b) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment.

2. “Foreign state” means a jurisdiction other than the United States, a state or a federally recognized Indian tribe.

3. “Identity proofing” means a process or service by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

4. “Outside the United States” means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States.

5. “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under subsection B of this section.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-264. Certificate of notarial act

A. A notarial act must be evidenced by a certificate. The certificate must:

1. Be executed contemporaneously with the performance of the notarial act.

2. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state.

3. Identify the jurisdiction in which the notarial act is performed.

4. Contain the title of office of the notarial officer.

5. If the notarial officer is a notary public, indicate the date of expiration of the notarial officer’s commission.

6. Be worded and completed using only letters, characters and a language that are read, written and understood by the notary public.

B. If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection A, paragraphs 2, 3 and 4 of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection A, paragraphs 2, 3, 4 and 5 of this section, an official stamp may be attached to or logically associated with the certificate.

C. A certificate of a notarial act is sufficient if it meets the requirements of subsections A and B of this section and any of the following:

1. It is in a short form set forth in section 41-265.

2. It is in a form otherwise allowed by the laws of this state.

3. It is in a form allowed by the laws applicable in the jurisdiction in which the

notarial act was performed.

4. It sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 41-253, 41-254 and 41-255 or the laws of this state other than this article.

D. By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with the requirements and made the determinations specified in sections 41-252, 41-253 and 41-254.

E. A notarial officer may not affix the notarial officer's signature to or logically associate it with a certificate until the notarial act has been performed.

F. If a notarial act is performed regarding a tangible record, a certificate must be part of or securely attached to the record. If the notarial certificate is attached to the record using a separate sheet of paper, the attachment must contain a description of the record that includes at a minimum the title or type of record, the date of the record, the number of pages of the record and any additional signers of the record other than those named in the notarial certificate. If a notarial act is performed regarding an electronic record, the certificate must be affixed to or logically associated with the electronic record. If the secretary of state has established standards pursuant to section 41-275 for attaching, affixing or logically associating the certificate, the process must conform to the standards.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-265. Short form certificates

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 41-264, subsections A and B:

1. For an acknowledgment in an individual capacity:

State of _____

(County) of _____

This record was acknowledged before me on _____

by _____

Stamp

(_____)

(My commission expires: _____)

2. For an acknowledgment in a representative capacity:

For an acknowledgment in a representative capacity:

State of _____

(County) of _____

This record was acknowledged before me on _____

by _____

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

Stamp

(_____)

(My commission expires: _____)

3. For a verification on oath or affirmation:

State of _____
(County) of _____
Signed and sworn to (or affirmed) before me on _____
by _____

Stamp
(_____)
(My commission expires: _____)

4. For witnessing or attesting a signature:

State of _____
(County) of _____
Signed (or attested) before me on _____
by _____

Stamp
(_____)
(My commission expires: _____)

5. For certifying a copy of a record:

State of _____
(County) of _____
I certify that this is a true and correct copy of a record in the possession of _____.

Dated _____

Stamp
(_____)
(My commission expires: _____)

6. For certifying a tangible copy of an electronic record:

State of _____
(County) of _____
I certify that the foregoing copy of a record (Entitled _____)
(Dated _____) and containing _____ pages is
an accurate copy of an electronic record.

Dated _____

Stamp
(_____)
(My commission expires: _____)

History
2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-266. Official stamp

A. The official stamp of a notary public must:

1. Include the words “notary public”, the name of the county in which the notary public is commissioned, the notary public’s name as it appears on the notary public’s commission, the commission expiration date and other information required by the secretary of state.

2. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

B. A notary public's official stamp may be any shape. The physical image of an official stamp created by a physical stamping device must be not more than one and one-half inches high and two and one-half inches wide and it must include an image of the great seal of the state of Arizona. The electronic image of an official stamp created by an electronic stamping device must be legible when reproduced together with the record with which it is logically associated.

C. A notary public may not affix or attach the notary public's official stamp over the notary public's signature or over any other signature on the record that is the subject of the notarial act.

D. The official stamp of a notary public is an official seal of office for the purposes of the laws of this state.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-267. Stamping device; violation; classification

A. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, the notary public shall disable any electronic stamping device by destroying, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of any electronic stamping device shall render it unusable by destroying, erasing or securing it against use in a manner that renders it unusable.

B. A vendor of stamping devices may not provide a stamping device to an individual unless the individual presents a copy of the individual's commission. The vendor must retain the copy for four years.

C. A notary public may possess only one physical stamping device for use with notarial acts performed regarding tangible records. A notary public may possess an embosser in addition to the notary public's physical stamping device. A notary public may use an embosser only in conjunction with the notary public's physical stamping device. An embosser or an impression made by the embosser is not an official seal of office for the purposes of the laws of this state.

D. A person who knowingly violates subsection B of this section is guilty of a class 6 felony. A person who violates subsection C of this section is guilty of a class 3 misdemeanor.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-268. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record

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

B. Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary

public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 41-275, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

C. A county recorder shall accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-269. Commission as notary public; confidential information; qualifications; assurance; no immunity or benefit

A. An individual qualified under subsection B of this section may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay any application fee. Except for the applicant's name and business address, all information provided on the application is confidential and may not be disclosed to any person other than the applicant, the applicant's guardian or personal representative or an employee or officer of the federal, state or local government who is acting in an official capacity. The secretary of state shall use the information provided on the application only for carrying out the purposes of this article.

B. An applicant for a commission as a notary public must:

1. Be at least eighteen years of age.
2. Be a citizen or permanent legal resident of the United States.
3. Be a resident of this state for income tax purposes and claim the individual's residence in this state as the individual's primary residence on state and federal tax returns.
4. Be able to read, write and understand English.
5. Not be disqualified to receive a commission under section 41-271.
6. Have passed the examination described in section 41-270 if required by the secretary of state.

7. Keep as a reference a manual that is approved by the secretary of state and that describes the duties, authority and ethical responsibilities of a notary public.

C. Before a commission as a notary public is issued, an applicant for the commission shall execute an oath of office and submit it to the secretary of state.

D. Before issuance of a commission as a notary public, the applicant for a commission shall submit to the secretary of state an assurance in the form of a surety bond in the amount of \$5,000. The assurance must be issued by a surety or other entity licensed or authorized to do business in this state. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. If a notary public violates any law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty days' notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance

is on file with the secretary of state. An employer may not cancel the assurance of any notary public who is an employee and who leaves such employment.

E. On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years.

F. A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the laws of this state on public officials or employees.

G. A notary public is a public officer commissioned by this state and all of the following apply without regard to whether the notary public's employer or any other person has paid the fees and costs for the commissioning of the notary public, including costs for a stamping device or journal:

1. A notary public's stamping device, commission and any journal that contains only public record entries remain the property of the notary public.

2. A notary public may perform notarial acts outside the workplace of the notary's employer except during those times normally designated as the notary public's hours of duty for that employer. All fees received by a notary public for notarial services provided while not on duty remain the property of the notary public.

3. An employer of a notary public may not limit the notary public's services to customers or other persons designated by the employer.

H. This state or any political subdivision of this state may pay the fees and costs for the commissioning of a notary public who is an employee of this state or any political subdivision of this state and who performs notarial acts in the course of the notary public's employment or for the convenience of public employees.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-270. Examination of notary public; fee

A. The secretary of state may require an applicant for a commission as a notary public who does not hold a commission in this state, an applicant who is renewing a commission as a notary public or a notary public with a suspended commission to pass an examination administered by the secretary of state or an entity approved by the secretary of state. The examination must be based on the course of study described in subsection B of this section.

B. If the secretary of state requires an examination under subsection A of this section, the secretary of state or an entity approved by the secretary of state may offer a course of study to applicants who do not hold commissions as notaries public in this state, applicants who are renewing commissions as notaries public or notaries public with suspended commissions. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

C. The secretary of state may prescribe and assess a fee for administering a course of study and examination under this section. The secretary of state shall deposit the fees collected under this section in the notary education fund established by section 41-332.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-271. Grounds to deny, refuse to renew, revoke, suspend or condition commission of notary public

A. The secretary of state may deny, refuse to renew, revoke, suspend or impose a

condition on a commission as notary public for any act or omission that demonstrates the individual lacks the competence or reliability to act as a notary public, including any of the following:

1. Failure to comply with this article.
 2. A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary of state.
 3. A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty or deceit. A conviction after a plea of no contest is deemed to be a conviction for the purposes of this paragraph.
 4. A finding against or admission of liability by the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit.
 5. Failure by the notary public to discharge any duty required of a notary public, whether by this article, rules of the secretary of state or federal or state law.
 6. Use of false or misleading advertising or representation by the notary public that the notary has a duty, right or privilege that the notary does not have.
 7. Violation by the notary public of a rule of the secretary of state regarding a notary public.
 8. Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state.
 9. Failure of the notary public to maintain an assurance as provided in section 41-269, subsection D.
 10. Charging more than the fees authorized by this article or rule.
 11. The return for insufficient funds or for any other reason for nonpayment of a check issued for the assurance filing fees or application fees to the secretary of state.
 12. Failure to respond to any request for information or to comply with any investigation initiated by the secretary of state or the attorney general.
 13. The prior revocation of a notary public commission in this state.
- B. If the secretary of state denies, refuses to renew, revokes, suspends or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and a hearing in accordance with chapter 6, article 10 of this title. The denial of an application or revocation or suspension of a commission is an appealable agency action. If an applicant appeals the denial of an application, the applicant may not submit a new application for consideration while the appeal is pending. If an individual's commission as a notary public in this state is revoked, the individual may not submit a new application for commission for one year after the date of revocation.
- C. The authority of the secretary of state to deny, refuse to renew, suspend, revoke or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022; 2022 2nd Reg. Sess. Ch. 59, § 104, effective September 24, 2022.

41-272. Database of notaries public

- A. The secretary of state shall maintain an electronic database of notaries public through which a person may verify the authority of a notary public to perform notarial acts.
- B. The electronic database may indicate whether a notary public has notified the

secretary of state that the notary public will be performing notarial acts on electronic records or for remotely located individuals under section 41-263.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-273. Prohibited acts; civil penalty; violation; classification

A. A commission as a notary public does not authorize an individual to:

1. Assist persons in drafting legal records, give legal advice or otherwise practice law.
2. Act as an immigration consultant or an expert on immigration matters.
3. Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters.
4. Receive compensation for performing any of the activities listed in this subsection.

B. A notary public may not engage in false or deceptive advertising.

C. A notary public, other than an attorney who is licensed to practice law in this state, may not use the term “notario” or “notario publico”.

D. A notary public, other than an attorney who is licensed to practice law in this state, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the internet, the notary public shall include the following statement, or an alternative statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: “I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.” If the form of advertisement or representation is not broadcast media, print media or the internet and does not allow inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

E. Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

F. If a notary public, other than an attorney licensed to practice law in this state, performs an activity listed in subsection A of this section or otherwise performs the unauthorized practice of immigration and nationality law as defined in section 12-2701, the secretary of state shall impose a civil penalty of not more than \$1,000 and permanently revoke the notary public’s commission.

G. A notary public who violates subsection D of this section is guilty of a class 6 felony and the secretary of state shall permanently revoke the notary public’s commission.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-274. Validity of notarial acts

Except as otherwise provided in section 41-252, subsection B and section 41-320, subsection B, the failure of a notarial officer to perform a duty or meet a requirement specified in this article does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this article does not prevent an aggrieved person from

seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this state other than this article or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-275. Rules

A. The secretary of state may adopt rules to implement this article. On or before July 1, 2022, the secretary of state shall adopt rules under this section regarding the performance of notarial acts with respect to electronic records. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

1. Prescribe the manner of performing notarial acts regarding tangible and electronic records.
2. Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident.
3. Include provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures.
4. Prescribe the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as a notary public.
5. Include provisions to prevent fraud or mistake in the performance of notarial acts.
6. Establish the process for approving and accepting surety bonds and other forms of assurance under section 41-269.
7. Provide for the administration of the examination under section 41-270, subsection A and the course of study under section 41-270, subsection B.

B. In adopting, amending or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with this article:

1. The most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state.
2. Standards, practices and customs of other jurisdictions that substantially enact this article.
3. The views of governmental officials and entities and other interested persons.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-276. Notary public commission in effect; authorization to perform electronic and remote online notarizations in effect

A. A commission as a notary public in effect on July 1, 2022 continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after July 1, 2022 is subject to and shall comply with this article. A notary public, in performing notarial acts after July 1, 2022, shall comply with this article.

B. An authorization issued by the secretary of state to perform electronic notarization or remote online notarizations in effect on July 1, 2022 continues until its date of expiration. a notary public who notifies the secretary of state that the notary public will

be performing notarial acts with respect to electronic records or with respect to remotely located individuals on or after July 1, 2022 is subject to and shall comply with this article.

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

41-277. Relation to electronic signatures in global and national commerce act

This article modifies, limits and supersedes the electronic signatures in global and national commerce act (P.L. 106-229; 114 Stat. 464; 15 United States Code sections 7001 through 7031) but does not modify, limit or supersede 15 United States Code section 7001(c) or authorize electronic delivery of any of the notices described in 15 United States Code section 7003(b).

History

2021 1st Reg. Sess. Ch. 66, § 10, effective July 1, 2022.

ARTICLE 2. NOTARIES PUBLIC

41-311. Definitions [Renumbered to A.R.S. § 41-251, effective July 1, 2022]

41-312. Repealed.

41-313. Repealed.

41-314. Notary bond fund; purpose; exemption

A. The notary bond fund is established consisting of monies received pursuant to section 41-178.

B. The secretary of state shall administer the fund and spend monies in the fund in order to defray the cost of the secretary of state's office assuming the responsibilities associated with the processing and administration of notary bonds.

C. On notice from the secretary of state, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

D. Monies in the fund are continuously appropriated and exempt from the provisions of section 35-190 relating to lapsing of appropriations.

History

Recent legislative history: Laws 2008, Ch. 80, § 14.

41-315. Repealed.

41-316. Fees

A. The secretary of state shall establish fees that notaries public may charge for notarial acts. These fees shall be established by rules adopted pursuant to chapter 6 of this title.

B. Notaries public may be paid an amount up to the amount authorized for mileage expenses and per diem subsistence for state employees as prescribed by title 38, chapter 4, article 2.

C. A notary shall not advertise or charge or receive a fee for performing a notarial act except as specifically authorized by rule.

History

Recent legislative history: Laws 1999, Ch. 230, § 4; Laws 2000, Ch. 210, § 3; Laws 2011, 1st Reg. Sess., Ch. 343, § 7.

41-317. Resignation; delivering notarial seal, notarial journal and records; failure to comply; storing records; certified copies

A. A notary public shall submit the notary public’s resignation in writing to the secretary of state.

B. On the resignation or revocation of a notarial commission or the death of a notary public, any physical stamping device, notarial journal and records, except those records of notarial acts that are not public record, shall be delivered by certified mail or other means providing a receipt to the secretary of state. If a notary public does not apply for reappointment, on expiration of the notarial commission, the device, the notarial journal and records shall be delivered to the secretary of state as required for resignation under this subsection. A notary public who neglects for three months thereafter to deposit such records, device and papers, or the personal representative of a deceased notary public who neglects for three months after appointment to deposit such records, device and papers, shall forfeit to the state not less than \$50 or more than \$500.

C. While a notary public is commissioned, a notary public shall keep all records and journals of the notary public’s acts for at least five years after the date the notarial act was performed. On receipt of the records and journals from a notary public who no longer is commissioned, the secretary of state shall keep all records and journals of notaries public deposited in the secretary of state’s office for five years and shall give certified copies thereof when required, and for the copy certifications the secretary of state shall receive the same fees as are by law allowed to notaries public. The copy certifications shall be as valid and effectual as if given by a notary public.

History

Recent legislative history: Laws 1999, Ch. 230, § 5; Laws 2008, Ch. 80, § 16; 2018 2nd Reg. Sess. Ch. 13, § 5, effective August 3, 2018; 2021 1st Reg. Sess. Ch. 66, § 13, effective July 1, 2022.

41-318. Wilful destruction of records; penalty

Any person who knowingly destroys, defaces or conceals any journal entry or records belonging to the office of a notary public shall forfeit to the state an amount not exceeding five hundred dollars and shall be liable for damages to any party injured thereby.

History

Last legislative year: 1996.

41-319. Journal

A. A notary public shall keep a paper journal to chronicle all notarial acts performed regarding tangible records. A notary public shall keep either a paper journal or one or more electronic journals to chronicle all notarial acts performed regarding electronic records. Except as prescribed by subsection E of this section, a notary public shall keep only one paper journal at a time. The notary public shall record all notarial acts in chronological order. The notary public shall furnish, when requested, a certified copy of any public record in the notary public’s journal. Records of notarial acts that violate the attorney-client privilege or that are confidential pursuant to federal or state law are not a public record. Each journal entry shall include at least:

1. The date of the notarial act.
2. A description of the document and type of notarial act.
3. The printed full name and address of each individual for whom a notarial act is performed.

4. If a paper journal is used, the signature of each individual for whom a notarial act is performed.

5. The type of satisfactory evidence of identity presented to the notary public by each individual for whom a notarial act is performed, or a notation that the notary public's personal knowledge of the individual was used as satisfactory evidence of identity.

6. A description of the identification card or document, if any, including its date of issuance or expiration.

7. The fee, if any, charged for the notarial act.

B. If a notary public has personal knowledge of the identity of a signer, the notary public shall retain a paper or electronic copy of the notarized documents for each notarial act in lieu of making a journal entry or the notary public shall make a journal entry pursuant to the requirements of subsection A, paragraphs 1, 2, 3, 4, 5 and 7 of this section.

C. Except for notarial acts performed for remotely located individuals under section 41-263, if a notary public performs more than one notarization for an individual within a six month period, the notary public shall have the individual provide satisfactory evidence of identity as required under section 41-255 the first time the notary performs the notarization for the individual but may not require satisfactory evidence of identity or the individual to sign the journal for subsequent notarizations performed for the individual during the six month period.

D. If a notary public performs more than one notarization of the same type for a signer either on similar records or within the same record and at the same time, the notary public may group the records together and make one journal entry for the transaction.

E. If one or more entries in a notary public's journal are not public records, the notary public shall keep one journal that contains entries that are not public records and one journal that contains entries that are public records. If a notary public keeps only one journal, that journal is presumed to be a public record. A notary public's journal that contains entries that are not public records is the property of the employer of that notary public and shall be retained by that employer if the notary public leaves that employment. A notary public's journal that contains only public records is the property of the notary public without regard to whether the notary public's employer purchased the journal or provided the fees for the commissioning of the notary public.

F. Except as provided in subsections A and E of this section, the notary public's journal is a public record that may be viewed by or copied for any member of the public, but only on presentation to the notary public of a written request that details the month and year of the notarial act, the name of the individual whose signature was notarized and the type of record or transaction.

History

Recent legislative history: Laws 1999, Ch. 230, § 6; Laws 2004, Ch. 54, § 4; 2019 1st Reg. Sess. Ch. 56, § 1, effective July 1, 2020; 2021 1st Reg. Sess. Ch. 66, § 14, effective July 1, 2022.

41-320. Competency of bank and corporation notaries

A. It is lawful for a notary public who is a stockholder, director, officer or employee of a corporation to take the acknowledgment or oath of any party to any record 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 of bills of exchange, drafts, checks, notes and other negotiable instruments that may be owned or held for collection by the corporation.

B. It is unlawful for any notary public to take the acknowledgment of a record executed by or to a corporation of which the notary public is a stockholder, director, officer or employee, where the notary public is a party to the record, 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 is individually a party to the instrument. A notarial act performed in violation of this subsection is voidable.

History

Last legislative year: 1973.

2021 1st Reg. Sess. Ch. 66, § 15, effective July 1, 2022.

41-321. Obtaining a seal; violation; classification [Repealed effective July 1, 2022]

41-322. Authentication of authority of officer for foreign notarizations [Repealed effective July 1, 2022]

41-323. Change of address; lost, stolen or compromised journal or seal; civil penalty

A. Within thirty days after the change of a notary public's mailing, business or residential address, the notary public shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the change that provides both the old and new addresses.

B. Within ten days after the loss, theft or compromise of an official journal or stamping device, the notary public shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the loss, theft or compromise. The notary also shall inform the appropriate law enforcement agency in the case of theft.

C. If a notary public fails to comply with subsection A or B of this section, the notary public has failed to fully and faithfully discharge the duties of a notary public. If the notary public failed to comply with subsection a of this section, the secretary of state may impose a civil penalty of \$25 against the notary. If the notary public failed to comply with subsection b of this section, the secretary of state shall impose a civil penalty of \$1,000 against the notary. The notary public shall pay any civil penalty imposed by the secretary of state pursuant to this subsection before the renewal of the notary's commission. Failure to pay a penalty may be referred to the attorney general for collection.

D. In a judicial proceeding where the identity of a party to a notarized instrument is in question, the official journal of the notary public is lost, stolen or compromised and the notary complied with this section, a presumption shall be given to the validity of the identity of the party who signed the instrument. If it is determined that the official journal never existed or that the notary public failed to comply with this section, no presumption shall apply that the identity of the party who signed the notarized instrument in question is valid.

E. In an action in which the validity of a notarized document is at issue and it is determined that the notary public did not comply with this section, the court shall provide notice of such findings to the secretary of state and the county attorney for the county in which the violation occurred.

History

Laws 1996, 2nd Reg. Sess., Ch. 127, § 11; Laws 1997, 1st Reg. Sess., Ch. 254, § 8; Laws 2004, Ch. 54, § 5; Laws 2011, 1st Reg. Sess., Ch. 343, § 8; 2018 2nd Reg. Sess. Ch. 13, § 6, effective August 3, 2018; 2021 1st Reg. Sess. Ch. 66, § 17, effective July 1, 2022; 2022 2nd Reg. Sess. Ch. 208, § 1, effective September 24, 2022.

41-324. Court reporters; notarial acts

A. Court reporters who administer oaths and affirmations in judicial proceedings are exempt from the provisions of this chapter other than section 41-269, subsections C and D. Court reporters who are commissioned as notaries and who perform notarial acts outside of judicial proceedings are subject to all provisions of this chapter and of other laws of this state that regulate notaries public.

B. A court reporter who prepares a transcript of a judicial proceeding shall attach a certificate page to the transcript. On the certificate page, the court reporter shall attest to the fact that the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript.

C. An affidavit of nonappearance that is prepared by a court reporter does not need to be witnessed by a notary public.

History

Laws 1997, 1st Reg. Sess., Ch. 254, § 9; 2021 1st Reg. Sess. Ch. 66, § 18, effective July 1, 2022.

41-325. Evidence of authenticity of a notarial act performed in this state

A. The authenticity of the official notarial seal and signature of a notary may be evidenced by either:

- 1. A certificate of authority from the secretary of state authenticated as necessary.
- 2. An apostille from the secretary of state in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

B. An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

History

Last legislative year: 1997.

41-326. Apostille

An apostille prescribed by the Hague convention, as cited in 28 United States Code in annotations to rule 44 of the federal rules of civil procedure, shall be in the form of a square with sides at least nine centimeters long and shall contain exactly the following wording:

Apostille

(Convention de la haye du 5 Octobre 1961)

1. Country: _____

This public document

2. Has been signed by _____

3. Acting in the capacity of _____

4. Bears the seal/stamp of _____

Certified

5. At _____ 6. The _____

7. By _____

8. No. _____

9. Seal/stamp _____

10. Signature _____

History

Last legislative year: 1997.

41-327. Name change; new commission

A notary public who has a change of surname may continue to use the official stamp and commission in the notary public's prior name until that commission expires. The notary public shall sign the changed surname on the line that is designated for the notary public's signature on the notarial certificate. Immediately below that signature, the notary public shall sign the name under which the notary was commissioned. The notary public shall notify the secretary of state's office within thirty days after the notary public's change of surname. Failure to notify the secretary of state of this change of surname is evidence of the notary public's failure to fully and faithfully discharge the duties of a notary public.

History

Recent legislative history: Laws 1999, Ch. 230, § 8; Laws 2004, Ch. 54, § 6; Laws 2008, Ch. 91, § 1; 2021 1st Reg. Sess. Ch. 66, § 19, effective July 1, 2022.

41-328. Repealed

41-329. Repealed.

41-330. Repealed.

41-331. Complaints; investigations

A. Any person may make a complaint to the office of the secretary of state regarding a notary public. The secretary of state shall receive any complaints and shall provide notice of those complaints to the office of the attorney general who shall investigate and take action on all complaints involving allegations of any violations of this article.

B. A notary's failure to respond to an investigation is a failure by the notary to fully and faithfully discharge the responsibilities and duties of a notary.

History

Recent legislative history: Laws 1999, Ch. 230, § 8; Laws 2004, Ch. 54, § 8.

41-332. Notary education fund

The notary education fund is established consisting of monies deposited pursuant to section 41-270. The secretary of state shall administer the fund. Monies in the fund are subject to legislative appropriation.

History

Recent legislative history: Laws 2010, 2nd Reg. Sess., Ch. 313, § 8; Laws 2011, 1st Reg. Sess., Ch. 343, § 10; 2018 2nd Reg. Sess. Ch. 13, § 7, effective August 3, 2018; 2021 1st Reg. Sess. Ch. 66, § 21, effective July 1, 2022.

41-333. Impersonation of notary public

Any person who knowingly acts as or otherwise intentionally impersonates a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of impersonating a public servant pursuant to section 13-2406.

History

Recent legislative history: Laws 2013, 1st Reg. Sess., Ch. 77, § 3.

ARTICLE 3 ELECTRONIC NOTARIZATION [REPEALED EFFECTIVE JULY 1, 2022]

41-351. Repealed.

41-352. Repealed.

41-353. Repealed.

41-354. Repealed.

41-355. Repealed.

41-356. Repealed.

41-357. Repealed.

41-358. Repealed.

41-359. Repealed.

41-360. Repealed.

41-361. Repealed.

41-362. Repealed.

41-363. Repealed.

41-364. Repealed.

41-365. Repealed.

41-366. Repealed.

41-367. Repealed.

41-368. Repealed.

41-369. Repealed.

41-370. Repealed.

ARTICLE 3 REMOTE ONLINE NOTARIZATION [REPEALED EFFECTIVE JULY 1, 2022]

41-371. Repealed.

41-372. Repealed.

41-373. Repealed.

41-374. Repealed.

41-375. Repealed.

41-376. Repealed.

41-377. Repealed.

41-378. Repealed.

41-379. Repealed.

41-380. Repealed.

**TITLE 44. TRADE AND COMMERCE
CHAPTER 26. ELECTRONIC TRANSACTIONS
ARTICLE 1. GENERAL PROVISIONS**

44-7011. Notarization; acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, that requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

History

Recent legislative history: Laws 2000, Ch. 268, § 1; 2016 2nd Reg. Sess. Ch. 80, § 27, effective August 6, 2016; 2017 1st Reg. Sess. Ch. 78, § 5, effective March 27, 2017; 2018 2nd Reg. Sess. Ch. 13, § 11, effective August 3, 2018; 2019 1st Reg. Sess. Ch. 56, § 4, effective July 1, 2020; 2021 1st Reg. Sess. Ch. 66, § 24, effective July 1, 2022.

ARTICLE 2. SECURE ELECTRONIC RECORDS AND SIGNATURES

44-7034. Electronic notarization; acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, that requirement is satisfied if all of the following are true:

1. A secure electronic signature of the individual who is authorized to perform those acts and all other information that is required to be included pursuant to any other applicable law are applied to a secure electronic record.

2. The secure electronic record has a time stamp token that is both:

(a) Created by a party recognized by the secretary of state.

(b) In a form that is accepted by the secretary of state to do all of the following:

(i) Reasonably verify the validity of the signing party's secure electronic signature.

(ii) Reasonably establish the time of signing.

3. The secure electronic record cannot be altered without invalidating the time stamp token.

History

Recent legislative history: Laws 2000, Ch. 268, § 1.

ARIZONA ADMINISTRATIVE CODE

**TITLE 2. ADMINISTRATION
CHAPTER 12. OFFICE OF THE SECRETARY OF STATE
ARTICLE 11. NOTARY PUBLIC BONDS AND FEES**

R2-12-1101. Definitions

The following definitions shall apply in this Article unless the context otherwise requires:

“Acknowledgment” means the same as defined in A.R.S. § 41-311(1).

“Bond” means a surety bond to the state, with sureties approved by the clerk of the superior court in the county in which the individual is being commissioned as a notary public.

“Copy certification” means the same as defined in A.R.S. § 41-311(3).

“Credible person” means a person used to identify a signer when the signer does not have other satisfactory evidence of identity as specified in A.R.S. § 41-311(11).

“Jurat” means the same as defined in A.R.S. § 41-311(6).

“Oath” or “affirmation” means the same as defined in A.R.S. § 41-311(10).

“Satisfactory evidence of identity” means the same as defined in A.R.S. § 41-311(11).

Historical Note

New Section adopted by emergency rulemaking at 6A.A.R. 2956, effective July 18, 2000 (Supp. 00-3).
Emergency rulemaking renewed at 7A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7A.A.R. 2141, effective May 1, 2001 (Supp. 01-2).

R2-12-1102. Notary Public Fees

A. Pursuant to A.R.S. § 38-412, a notary public shall keep posted at all times in a conspicuous location, the fee schedule listed under subsection (E)(1) through (3).

B. Upon reviewing the fees schedule under subsection (E)(1) through (3), a notary shall select a standard fee, from “no charge” up to the maximum \$10 fee for a notarial act. A notary public shall be consistent when charging fees and post the fee schedule in a conspicuous location.

C. When posting fees under subsection (A) and (B), notaries shall use the template in Exhibit1. Notary Public Services.

D. Before performing any notarial act, the notary public shall inform the requestor of the service fee if one will be charged.

E. A Notary public may charge the following fee:

1. For an acknowledgment or jurat, “no charge” up to \$10 per notary public signature;
2. For a copy certification, “no charge” up to \$10 per page certified;
3. For an oath or affirmation without a signature, “no charge” up to \$10 per notarial act.

Exhibit1. Notary Public Services

NOTARY PUBLIC SERVICES

(Business, Office, or Notary Name)

Fees Schedule		
Posted pursuant to R2-12-1102		
acknowledgment or jurat	[Example Fee] No	per notary public signature

	Charge	
copy certification	[Example Fee] No Charge	per page certified
oath or affirmation	[Example Fee] No Charge	per notarial act
<i>Attention Customer: Fees charged by an Arizona Notary Public may vary from “no charge” up to \$10.</i>		

An Arizona Notary Public May Charge the Following Fees

Posted pursuant to A.R.S. § 38-412		
acknowledgment or jurat	up to \$10	per notary public signature
copy certification	up to \$10	per page certified
oath or affirmation	up to \$10	per notarial act

Historical Note

New Section adopted by emergency rulemaking at 6A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7A.A.R. 2141, effective May 1, 2001 (Supp. 01-2). Amended by final rulemaking at 24A.A.R. 137, effective March 5, 2018.

R2-12-1103. Notary Public Bonds

A. Notaries public shall purchase a bond in the amount of \$5,000 before being commissioned as a notary public. The original bond shall be filed with the clerk of the superior court in the applicant’s county of residence. A copy of the bond shall be filed with the applicant’s application form submitted to the Secretary of State’s Office.

B. The bond shall contain, on its face, the oath of office for the notary public as specified in A.R.S. § 38-233(B). This oath shall be as specified in A.R.S. § 38-231. The notary shall endorse the oath on the face of the bond, immediately below the oath, by signing the notary’s name under which the person has applied to be commissioned as a notary and exactly as the name appears on the notary application form filed with the Secretary of State’s Office.

Historical Note

New Section adopted by emergency rulemaking at 6A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7A.A.R. 2141, effective May 1, 2001 (Supp. 01-2).

ARTICLE 12. ELECTRONIC NOTARY

R2-12-1201. Definitions

The following definitions shall apply to this Article unless context otherwise requires:

1. “Apostille” means a certificate that authenticates the seals and signatures of officials on public documents issued by public authorities for use in foreign countries that are members of the 1961 Hague Convention Treaty.
2. “Certificate Authority” means an entity that issues digital certificates for use in performing electronic notarizations.
3. “Commission” means the same as defined in A.R.S. § 41-251(2).
4. “Electronic” means the same as defined in A.R.S. § 41-251(3).

5. “Electronic notarization” or “electronic notarial act” means a notarial act performed with respect to an electronic record in accordance with this Article while the signer is in the physical presence of the notary public.

6. “Electronic notary public” means a notary public authorized to perform electronic notarial acts.

7. “Electronic record” means information that is created, generated, sent, communicated, received or stored by electronic means.

8. “Electronic seal” means an electronic image that contains information attached to or logically associated with an electronic record and that contains the words “notary public”, the name of the county in which the notary public is commissioned, the notary public’s name as it appears on the notarial commission, the commission number and the expiration date of the notarial commission.

9. “Electronic signature” means the same as defined in A.R.S. § 41-251(4).

10. “Non-repudiation” means the signer of an electronic document shall not deny their electronic signature without factual basis.

11. “Notarial act” means the same as defined in A.R.S. § 41-251(6).

12. “Notary public” or “notary” means the same as defined in A.R.S. § 41-251(8).

13. “Person” means the same as defined in A.R.S. § 41-251(10).

14. “Qualified Certificate Authority” means a trusted entity that issues digital certificates in compliance with the requirements of R2-12-1204.

15. “Tamper-evident technology” means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform notarial acts with respect to electronic records and to display evidence of any changes made to an electronic record.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Added by final rulemaking at 3 A.A.R. 106, effective December 30, 2019 (supp 20-1); Amended by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).

R2-12-1202. Authority to Perform Electronic Notarization

A notary public of this state may perform electronic notarizations during the term of the notary public’s commission if:

1. The notary public has received written authorization from the Secretary of State to perform either:

- a. Electronic notarizations under this Article; or
- b. Remote online notarizations; and

2. The Secretary of State has not terminated or revoked such authorization.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended and renumbered by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

R2-12-1203. Registration

A. To receive authorization from the Secretary of State to perform electronic notarizations a notary public must submit an application in a format prescribed by the Secretary of State that provides the following information about the applicant:

1. The applicant’s full legal name and the name under which the applicant is commissioned as a notary public (if different);
2. The applicant’s email address;
3. A description of the technologies or devices that the applicant intends to use to

perform electronic notarizations;

4. The name, address, and website URL of any vendors or other persons that will directly supply to the applicant the technologies that the applicant intends to use;

5. A statement certifying that the applicant has obtained a digital certificate from a qualified certificate authority to be used by the applicant in performing electronic notarizations; and

6. A statement certifying that the technologies described in the application comply with the requirements of this Article.

B. The application must be submitted to the Secretary of State as provided by information posted on the Secretary of State's website at <https://azsos.gov/>.

C. If, during the term of a notary public's commission, the notary public intends to use the technologies of another vendor or person than those identified under subsection (A)(3) and (4), then an additional application or amendment identifying such other vendors or other persons must be submitted to the Secretary of State as provided in this section.

D. If the technology identified in the application under subsection (A) conforms to the standards adopted under this Article and the applicant satisfies the requirements of this section, the Secretary of State shall approve the use of the technology and issue to the notary public written authorization to perform electronic notarizations.

E. The Secretary of State may reject the application, or terminate or revoke a prior authorization given under this section, for the following reasons:

1. The applicant's failure to comply with A.R.S. §§ 41-251 through 41-333 or this Article;

2. Any information required under subsection (A) is missing, inaccurate, or incomplete; or

3. The technology identified in the application does not conform to the standards adopted under this Article.

F. The Secretary of State shall notify the notary public of approval or rejection of the application within forty-five (45) days after receipt. If the application is rejected, the Secretary of State shall state the reasons for the rejection.

G. Rejection of an application, or termination or revocation of a prior authorization to perform electronic notarizations may be appealed pursuant to A.R.S. §§ 41-1092.03 and 41-1092.06.

H. The term of the commission for electronic notarization shall be the same as the term of the notary's existing notary commission.

I. The renewal of the commission of a notary public who has previously received authorization to perform electronic notarizations does not constitute renewal of such authorization to perform electronic notarizations. Applicant shall submit another application as provided under subsection (A) and must receive authorization from the Secretary of State in order to continue to perform electronic notarizations.

J. Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using hardware and/or software updates to the technologies that the notary public identified under subsection (A) if the hardware and/or software update does not result in technologies that are materially different from the technologies that the notary public identified previously.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended and renumbered by final rulemaking at 3 A.A.R. 106, effective December 30, 2019; Amended by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).

R2-12-1204. Tamper Evident Technology

A. A notary public shall select one or more tamper-evident technologies to perform electronic notarizations. The tamper-evident technology shall consist of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology.

B. In performance of an electronic notarization, a notary public shall attach or logically associate the notary public's electronic signature and electronic seal to an electronic record that is the subject of a notarial act by use of the digital certificate.

C. A notary public may not perform an electronic notarization if the digital certificate:

1. Has expired;
2. Has been revoked or terminated by the issuing or registering authority;
3. Is invalid; or
4. Is incapable of authentication.

D. Renewal of the notary's digital certificate is separate from the registration process with the Secretary of State and shall be obtained from a qualified certificate authority capable of supplying certificates that comply with this section. Renewal of the certificate with the certificate authority is the responsibility of the notary.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended and renumbered by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

R2-12-1205. Electronic Seal Requirements

A. A notary public shall use the same unique electronic seal for all electronic notarizations performed during an applicable commission period.

B. An electronic seal shall substantially conform to the following design: a rectangular or circular seal with the notary public's name as it appears on the commission, the great seal of the State of Arizona, the words "Notary Public," "State of Arizona," and "My commission expires on (date)," the name of the county in which the notary public is commissioned, and the commission number.

C. When affixed to an electronic record, an electronic seal shall be clear, legible, and photographically reproducible. An electronic seal is not required to be within a minimum or maximum size when photographically reproduced on an electronic record.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended and renumbered by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

R2-12-1206. Security of Electronic Signatures and Electronic Seals

A. A notary public's electronic signature and electronic seal shall remain within the exclusive control of the notary public, including control by means of use of a password or other secure method of authentication. A notary public shall not disclose any access information used to affix the notary public's electronic signature or electronic seal to electronic records, except:

1. When requested by the Secretary of State or a law enforcement officer;
2. When required by court order or subpoena; or
3. Pursuant to an agreement to facilitate electronic notarizations with a vendor or other technology provider identified in an application submitted under this Article.

B. A notary public may not allow any other individual to use his or her electronic signature or electronic seal to perform a notarial act.

C. Upon resignation, revocation, or expiration of the notary public's commission, the

notary public's electronic seal (including any coding, disk, digital certificate, card, software, or password that enables the notary public to attach or logically associate the electronic seal to an electronic record) shall be destroyed or disabled to prohibit its use by any other person.

D. A notary public shall immediately notify an appropriate law enforcement agency and the Secretary of State on actual knowledge of the theft or vandalism of the notary public's electronic signature, electronic seal, or digital certificate. A notary public shall immediately notify the Secretary of State on actual knowledge of the unauthorized use by another person of the notary public's electronic signature, electronic seal, or digital certificate. New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended and renumbered by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

R2-12-1207. Journal

An electronic notary public shall keep a journal of all electronic notarial acts in bound paper form with the same form as required in A.R.S. § 41-319 and shall be under the sole control of the electronic notary public.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended and renumbered by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

R2-12-1208. Requirements for Authenticating the Notarial Act

Electronic notarial acts need to fulfill certain basic requirements to ensure non-repudiation and the capability of being authenticated by the Secretary of State for purposes of issuing Apostilles and Certificates of Authentication. They are as follows:

1. The fact of the notarial act, including the notary's identity, signature, and commission status, must be verifiable by the Secretary of State, and
2. The notarized electronic document will be rendered ineligible for authentication by the Secretary of State if it is improperly modified after the time of notarization, including any unauthorized alterations to the document content, the electronic notarial certificate, the notary public's electronic signature, and/or the notary public's official electronic seal.

New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2); Amended by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

R2-12-1209. Repealed. Repealed by final rulemaking at 3 A.A.R. 106, effective December 30, 2019.

ARTICLE 13. REMOTE ONLINE NOTARIZATION

R2-12-1301. Definitions

The following definitions shall apply to this Article unless context otherwise requires:

1. "Commission" means the same as defined in A.R.S. § 41-251(2).
2. "Communication technology" means the same as defined in A.R.S. § 41-251(1).
3. "Credential analysis" means a process or service that meets the standards established under R2-12-1305 through which a third person affirms the validity of an identification credential through review of public or private data sources.
4. "Dynamic knowledge-based authentication assessment" means an identity assessment of an individual that is based on a set of questions formulated from public or private data sources for which the individual has not provided a prior answer.

5. “Electronic” means the same as defined in A.R.S. § 41-251(3).

6. “Electronic notarization” or “electronic notarial acts” means a notarial act performed with respect to an electronic record in accordance with Article 12.

7. “Electronic record” means information that is created, generated, sent, communicated, received or stored by electronic means.

8. “Electronic seal” means an electronic image that contains information attached to or logically associated with an electronic record and that contains the words “notary public”, the name of the county in which the notary public is commissioned, the notary public’s name as it appears on the notarial commission, the commission number and the expiration date of the notarial commission.

9. “Identification credential” means an identification card or document that constitutes “satisfactory evidence of identity” as defined in A.R.S. § 41-255.

10. “Identity proofing” means a process or service that meets the standards established under R2-12-1305 through which a third person affirms the identity of a remotely located individual by a review of personal information from public or private data sources.

11. “Multi-factor authentication” means a security system that requires more than one method of authentication from independent categories of credentials to verify the user’s identity for a login or other transaction.

12. “Notarial act” means the same as defined in A.R.S. § 41-251(6).

13. “Person” means the same as defined in A.R.S. § 41-251(10).

14. “Personal knowledge” means the same as defined in A.R.S. § 41-255(A).

15. “Remotely located individual” means the same as defined in A.R.S. § 41-261(I)(5).

16. “Remote online notarization” or “remote online notarial act” means a notarial act performed by means of communication technology.

17. “Remote presentation” means transmission to a notary public through communication technology of an image of a remotely located individual’s identification credential that is of sufficient quality to enable the notary public to reasonably identify the remotely located individual and to perform credential analysis.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1); Amended by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).

R2-12-1302. Authority to Perform Remote Online Notarization

A. A notary public of this state may perform remote online notarizations during the term of the notary public’s commission if:

1. The notary public has received written authorization from the Secretary of State to perform remote online notarizations under this Article; and

2. The Secretary of State has not terminated or revoked such authorization.

B. A notary public who is authorized to perform remote online notarizations under subsection (A) may also perform electronic notarizations under Article 12.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1).

R2-12-1303. Use of Electronic Notarization

In performing a remote online notarization, a notary public must comply with the requirements for electronic notarization as provided in Article 12.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1).

R2-12-1304. Registration

A. To receive authorization from the Secretary of State to perform remote online notarizations a notary public must submit an application in a format prescribed by the Secretary of State that provides the following information about the applicant:

1. The applicant's full legal name and the name under which the applicant is commissioned as a notary public (if different);
2. The applicant's email address;
3. A description of the technologies or devices that the applicant intends to use to perform remote online notarizations;
4. The name, address, and website URL of any vendors or other persons that will directly supply to the applicant the technologies that the applicant intends to use;
5. A statement certifying that the technologies described in the application comply with the requirements of this Article; and
6. A disclosure of any professional license or commission revocations or other professional disciplinary actions taken under the laws of any state against the applicant.

B. The application must be submitted to the Secretary of State as provided by information posted on the Secretary of State's website at <https://azsos.gov/>.

C. If, during the term of a notary public's commission, the notary public intends to use the technologies of another vendor or person than those identified under subsection (A)(3) and (4), then an additional application or amendment identifying such other vendors or other persons must be submitted to the Secretary of State as provided in this section.

D. If the technology identified in the application under subsection (A) conforms to the standards adopted under this Article and the applicant satisfies the requirements of this section, the Secretary of State shall approve the use of the technology and issue to the notary public written authorization to perform electronic notarizations.

E. The Secretary of State may reject the application, or terminate or revoke a prior authorization given under this section, for the following reasons:

1. The applicant's failure to comply with A.R.S. §§ 41-251 through 41-333 or this Article;
2. Any information required under subsection (A) is missing, inaccurate, or incomplete; or
3. The technology identified in the application does not conform to the standards adopted under this Article.

F. The Secretary of State shall notify the notary public of approval or rejection of the application within forty-five (45) days after receipt. If the application is rejected, the Secretary of State shall state the reasons for the rejection.

G. Rejection of an application, or termination or revocation of a prior authorization to perform electronic notarizations may be appealed pursuant to A.R.S. §§ 41-1092.03 and 41-1092.06.

H. The term of the commission to perform remote online notarization shall be the same as the term of the notary's existing notary commission.

I. The renewal of the commission of a notary public who has previously received authorization to perform remote online notarizations does not constitute renewal of such authorization. Applicant shall submit another application as provided under subsection (A) and must receive authorization from the Secretary of State in order to continue to perform remote online notarizations.

J. Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using hardware and/or software updates to the technologies that the notary public identified under subsection (A) if the hardware and/or software update does not result in technologies that are materially different from the technologies that the notary public identified previously.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1); Amended by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).

R2-12-1305. Standards for Identity Verification

A. If a notary public does not have satisfactory evidence of the identity of a remotely located individual under subsection (D), the notary public must reasonably verify the individual's identity through a multi-factor authentication procedure as provided in this section and in subsections (B) and (C). The procedure must analyze the individual's identification credential that is the subject of remote presentation against trusted third-person data sources, bind the individual's identity to the individual following successful dynamic knowledge-based authentication assessment, and permit the notary public to visually compare the identification credential and the individual. Credential analysis and identity proofing must be performed by a reputable third party who has provided evidence to the notary public of the ability to satisfy the requirements of this Article.

B. Credential analysis must use public or private data sources to confirm the validity of the identification credential that is the subject of remote presentation by a remotely located individual and shall, at a minimum:

1. Use automated software processes to aid the notary public in verifying the identity of each remotely located individual;

2. Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

3. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and

4. Enable the notary public to visually compare for consistency the information and photograph on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

C. Identity proofing must be performed by means of a dynamic knowledge-based authentication assessment. The assessment is successful if it meets the following requirements:

1. The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;

2. Each question must have a minimum of five possible answer choices;

3. At least 80% of the questions must be answered correctly;

4. All questions must be answered within two minutes;

5. If the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;

6. During a retake of the quiz, a minimum of 40% of the prior questions must be replaced;

7. If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same online notary public within 24 hours of the second failed attempt; and

8. The notary public must not be able to see or record the questions or answers.

D. A notary public has satisfactory evidence of the identity of a remotely located individual if:

1. The notary public has personal knowledge of the identity of the individual; or

2. The individual is identified by oath or affirmation of a credible witness in accordance with the following requirements:

a. To be a credible witness, the witness must have personal knowledge of the remotely located individual.

b. The notary public must have personal knowledge of the credible witness or verify the identity of the credible witness by multi-factor authentication in accordance with subsections (A), (B) and (C).

c. A credible witness may be outside the physical presence of the notary public or remotely located individual if the notary public, credible witness, and remotely located individual can communicate by using communication technology.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1).

R2-12-1306. Standards for Communication Technology

A. Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other. The process must provide a means for the notary public reasonably to confirm that an electronic record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

B. Communication technology must provide reasonable security measures to prevent unauthorized access to:

1. The live transmission of the audio-visual feeds;

2. The methods used to perform identify verification; and

3. The electronic record that is the subject of the remote online notarization.

C. If a remotely located individual must exit the workflow prior to completion of the identity verification process, the individual must restart the identity verification process from the beginning.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1).

R2-12-1307. Certificate of Notarial Act for Remote Online Notarization

A. A form of notarial certificate for a remote online notarization satisfies the requirement of A.R.S. § 41-262(D) if it is in the form provided by applicable law and contains a statement substantially as follows: “This remote online notarization involved the use of communication technology.”

B. A short form of acknowledgment prescribed in A.R.S. § 41-265 or other form of notarial certificate required by law satisfies the requirement of A.R.S. § 41-263(D) if it is in substantially one of the following forms for the purposes indicated:

1. For an acknowledgment in an individual capacity:

State of Arizona

County of _____

The foregoing instrument was acknowledged before me by means of communication technology on (date) by (name(s) of individual(s)).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

2. For an acknowledgment in a representative capacity:

State of Arizona

County of _____

The foregoing instrument was acknowledged before me by means of communication technology on (date) by (name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom the instrument was executed).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

3. For a verification on oath or affirmation:

State of Arizona

County of _____

Signed and sworn to (or affirmed) before me by means of communication technology on (date) by (name(s) of individual(s) making statement).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

4. Certificate of acknowledgement for a corporation:

State of Arizona

County of _____

The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

5. Certificate of acknowledgement for a partnership:

State of Arizona

County of _____

The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

6. Certificate of acknowledgement for an individual acting as principal by an attorney in fact:

State of Arizona

County of _____

The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

7. Certificate of acknowledgement by any public officer, trustee, or personal representative:

State of Arizona

County of _____

The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name and title of position).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: _____)

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1); Amended by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).

R2-12-1308. Record Retention and Depositories

A. A notary public must retain the electronic journal required and any audio-visual recording of the performance of each remote online notarial act in a computer or other electronic storage device that protects the journal and recording against unauthorized access by password or cryptographic process. The recording must be created in an industry-standard, audio-visual file format and must not include images of any electronic record that was the subject of the remote online notarization.

B. An electronic journal must be retained for at least five (5) years after the last remote online notarial act chronicled in the journal. An audio-visual recording must be retained for at least five (5) years after the recording is made.

C. A notary public must take reasonable steps to ensure that a backup of the electronic journal and audio-visual recording exists and is secure from unauthorized use.

D. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of an electronic journal or audio-visual recording must:

1. Comply with the retention requirements of this section;

2. Transmit the journal and recording to one or more depositories under subsection (E); or

3. Transmit the journal and recording in an industry-standard readable data storage device to the Secretary of State at: Secretary of State, Attn: Notary Department, 1700 W. Washington Street, Floor 7, Phoenix, AZ 85007-2808.

E. A notary public, guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third person

to act as a depository to provide the storage required by this section. A third person under contract under this section shall be deemed a depository. The contract must:

1. Enable the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of this section even if the contract is terminated; or

2. Provide that the information will be transferred to the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public if the contract is terminated.

Added by final rulemaking at 13 A.A.R. 537, effective March 19, 2020 (supp 20-1); Amended by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).

R2-12-1309. Electronic Record of Remote Online Notarizations

A. A notary public shall record each remote online notarial act performed by the notary public in chronological order in one or more journals maintained in a permanent, tamper-evident electronic format that complies with this Article. A notary public may not record a remote online notarial act in a paper journal required by section A.R.S. § 41-319. Each journal entry shall include:

1. The date and time of the notarial act;

2. A description of the record, if any, and type of notarial act;

3. The full name and address of each individual for whom the remote online notarial act is performed;

4. If the identity of the individual is based on personal knowledge, a statement to that effect;

5. If the identity of the individual is based on credential analysis and identity proofing, a brief description of the results of the identity verification process and the identification credential presented, including the date of issuance and expiration of the identification credential but not its serial or identification number;

6. If the identity of the individual is based on an oath or affirmation of a credible witness, the information required by subsections (3), (4) and (5) of this section with respect to the credible witness;

7. A fee, if any, charged by the notary public.

B. An electronic journal kept by the notary public and the audio and visual recording are subject to A.R.S. § 41-319 relating to public records.

Added by final rulemaking at 14 A.A.R. 719, effective March 24, 2022 (supp 22-2).