

**ARKANSAS CODE ANNOTATED**

**TITLE 4. BUSINESS AND COMMERCIAL LAW  
SUBTITLE 7. CONSUMER PROTECTION  
CHAPTER 109. USE OF “NOTARIO” AND SIMILAR TERMS.**

**4-109-101. Definitions.**

As used in this chapter:

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

**4-109-102. Prohibited acts and practices.**

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

**4-109-103. Notice required.**

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

**4-109-104. Exceptions.**

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

**4-109-105. Enforcement.**

A violation of this chapter is an unconscionable or deceptive act or practice under §§ 4-88-101 — 4-88-115.

**TITLE 14. LOCAL GOVERNMENT.  
SUBTITLE 1. GENERAL PROVISIONS.  
CHAPTER 2. PUBLIC RECORDS GENERALLY.  
SUBCHAPTER 3. UNIFORM REAL PROPERTY  
ELECTRONIC RECORDING ACT**

**14-2-303. 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 subchapter.

(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.

**TITLE 16. PRACTICE, PROCEDURE, AND COURTS**  
**SUBTITLE 4. EVIDENCE AND WITNESSES**  
**CHAPTER 47. ACKNOWLEDGMENT AND PROOF OF INSTRUMENTS**  
**SUBCHAPTER 1. GENERAL PROVISIONS**

**16-47-101. Proof or acknowledgment as prerequisite to recording real estate conveyances.**

All deeds and other instruments in writing for the conveyance of any real estate, or by which any real estate may be affected in law or equity, shall be proven or duly acknowledged in conformity with the provisions of this act, before they or any of them shall be admitted to record.

**16-47-102. Forms of acknowledgments - Validity - Acknowledgments of married persons.**

(a) Either the forms of acknowledgments now in use in this state or any other forms which specify, in the caption or otherwise, the state and county or other place where the acknowledgment is taken, and which set out the name of the person acknowledging and, in instances where he or she acknowledges otherwise than in his or her own right, the name of the person, association, or corporation for which he or she acknowledges, and which recite in substance or the equivalent that the execution of the instrument was acknowledged by the person so named as acknowledging, or any other form of acknowledgment provided by law, may be used in the case of all deeds and other instruments in writing for the conveyance of real or personal property, or whereby such property is to be affected in law or equity, and also in any other case where such acknowledgment is for any purpose required or authorized by law. An acknowledgment in any of these forms shall be sufficient to entitle the instrument to be recorded and to be read in evidence.

(b) The acknowledgment of a married person, both as to the disposition of his or her own property and as to the relinquishment of dower, curtesy, and homestead in the property of a spouse, may be made in the same form as if he or she were sole and without any examination separate and apart from a spouse, and without necessity for a specific reference therein to the interest so conveyed or relinquished.

**16-47-103. Officers authorized to take proof or acknowledgment of real estate conveyances.**

(a) The proof or acknowledgment of every deed or instrument of writing for the conveyance of any real estate shall be taken by one of the following courts or officers:

(1) When acknowledged or proven within this state, before the Supreme Court, the circuit court, the chancery court, or any judges thereof, the clerk of any court of record, any county or probate judge, or before any justice of the peace or notary public;

(2) When acknowledged or proven outside this state, and within the United States or its territories, or in any of the colonies or possessions or dependencies of the United States, before any court of the United States, or any state or territory, or colony or possession or dependency of the United States, having a seal, or a clerk of any such court, or before any

notary public, or before the mayor of any incorporated city or town, or the chief officer of any city or town having a seal, or before a commissioner appointed by the Governor of this state;

(3) When acknowledged or proven outside the United States, before any court of any state, kingdom, or empire having a seal; any mayor or chief officer of any city or town having an official seal; or before any officer of any foreign country who by the laws of that country is authorized to take probate of the conveyance of real estate of his own country if the officer has, by law, an official seal.

(b) The acknowledgment of any deed or mortgage, when taken outside the United States, may be taken and certified by a United States consul.

**16-47-104. Attestation of acknowledgments.**

(a) In cases of acknowledgment or proof of deeds or conveyances of real estate taken within the United States or territories thereof, when taken before any court or officer having a seal of office, the deed or conveyance shall be attested under the seal of office. If the officer has no seal of office, then it shall be attested under the official signature of the officer.

(b) In all cases of deeds and conveyances proven or acknowledged outside the United States or its territories, the acknowledgment or proof must be attested under the official seal of the court or officer before whom the probate is had.

**16-47-105. Certificate of acknowledgment.**

Every court or officer that shall take the proof or acknowledgment of any deed or conveyance of real estate, or the relinquishment of dower of any married woman in any conveyance of the real estate of her husband, shall grant a certificate thereof and cause the certificate to be endorsed on the deed, instrument, conveyance, or relinquishment of dower, which certificate shall be signed by the clerk of the court where probate is taken in court or by the officer before whom the probate is taken and sealed, if he has a seal of office.

**16-47-106. Manner of making acknowledgment - Proof of deed or instrument - Proof of identity of grantor or witness.**

(a) The acknowledgment of deeds and instruments of writing for the conveyance of real estate, or whereby such real estate is to be affected in law or equity, shall be by the grantor appearing in person before a court or officer having the authority by law to take the acknowledgment and stating that he had executed the deed or instrument for the consideration and purposes therein mentioned and set forth.

(b) When a deed or instrument referred to in subsection (a) of this section is to be proved, it shall be done by one (1) or more of the subscribing witnesses personally appearing before the proper court or officer and stating on oath that he saw the grantor subscribe the deed or instrument of writing or that the grantor acknowledged in his presence that he had subscribed and executed the deed or instrument for the purposes and consideration therein mentioned, and that he had subscribed the deed or instrument as a witness at the request of the grantor.

(c) If any grantor has not acknowledged the execution of a deed or instrument referred to in subsection (a) of this section, and the subscribing witnesses are dead or cannot be had, then the deed or instrument may be proved by the evidence of the handwriting of the grantor and of at least one (1) of the subscribing witnesses, which evidence shall consist of the deposition of two (2) or more disinterested persons, swearing to each signature.

(d) When any grantor in any deed or instrument that conveys real estate, or whereby any real estate may be affected in law or equity, or any witness to any like instrument, shall present himself before any court or other officer for the purpose of acknowledging or proving the execution of the deed or instrument, if the grantor or witness shall be personally unknown to

the court or officer, his identity and his being the person he purports to be on the face of such instrument of writing shall be proven to the court or officer, which proof may be made by witnesses known to the court or officer, or by the affidavit of the grantor or witness if the court or officer shall be satisfied therewith. The proof or affidavit shall also be endorsed on the deed or instrument of writing.

**16-47-107. Forms for acknowledgment.**

(a) For all deeds, conveyances, deeds of trust, mortgages, and other instruments in writing affecting or purporting to affect the title of any real estate situated in this state and executed by corporations, business trusts, estates, partnerships, limited liability companies, associations, joint ventures, or any other legal entities, the following form is deemed to be a valid acknowledgment and sufficient for recordation or entry into evidence under § 18-12-202:

“State of .....

County of .....

On this ..... day of ....., 20 ~~19~~..., before me, ....., a Notary Public, (or before an officer within this State or without the State now qualified under existing law to take acknowledgments), duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named ..... and ....., (being the person or persons authorized by said corporation, [business trust, estate, partnership, limited liability company, association, joint venture, or other legal entity] to execute such instrument, stating their respective capacities in that behalf), to me personally well known (or satisfactorily proven to be such person), who stated that [he, she, or they] was [were] the ..... [and .....]. of the ....., a corporation [business trust, estate, partnership, limited liability company, association, joint venture, or other legal entity], and was [were] duly authorized in [his, her, or their] respective capacity [capacities] to execute the foregoing nstrument(s) for and in the name and behalf of said corporation [business trust, estate, partnership, limited liability company, association, joint venture or other legal entity], and further stated and acknowledged that [he, she, or they] had so signed, executed, and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

“IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ..... day of ....., 20 ....

.....  
(Notary Public)”

(b) For all deeds, conveyances, deeds of trust, mortgages, and other instruments in writing affecting or purporting to affect the title of any real estate situated in this state and executed by individuals, the following form is deemed to be a valid acknowledgment and sufficient for recordation or entry into evidence under § 18-12-202:

“State of .....

County of .....

On this ..... day of ....., 20...., before me, a Notary Public, (or before any officer within this State or without the State now qualified under existing law to take acknowledgments,) appeared the within named ..... [and .....], to me personally well known (or satisfactorily proven to be such person), who stated and acknowledged that [he, she or they] had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ..... day of ....., 20....

.....  
(Notary Public)”

(c) For all deeds, conveyances, deeds of trust, mortgages, and other instruments in writing

affecting or purporting to affect the title of any real estate situated in this state and executed by attorneys in fact, the following form is deemed to be a valid acknowledgment and sufficient for recordation or entry into evidence under § 18-12-202:

“State of .....

County of .....

On this the .....day of ....., 20....., before me, ....., the undersigned officer, personally appeared ....., known to me (or satisfactorily proven) to be the person whose name is subscribed as attorney in fact for ....., and acknowledged that he executed the same as the act of his principal for the consideration, uses, and purposes therein contained.

IN TESTIMONY WHEREOF I hereunto set my hand and official seal.

.....

.....

Title of Officer.”

(d) All deeds or instruments affecting or purporting to affect the title to land executed in the above and foregoing form listed in subsections (a), (b), or (c) of this section as applicable, shall be good and sufficient.

(e) The bracketed language listed in subsections (a), (b), and (c) above, suggests alternate language and is not required to be in an acknowledgment when the alternate language is not applicable.

(f) The use of the present or past tense in the form of acknowledgment shall not affect the validity of the acknowledgement.

(g) The heading of the acknowledgment may list either:

(1) The county where the officer executing the acknowledgment resides; or

(2) The county where the acknowledgment occurred.

**16-47-108. Validation of instruments affecting title to property.**

All deeds, conveyances, deeds of trust, mortgages, marriage contracts, and other instruments in writing, affecting or purporting to affect the title to any real estate or personal property situated in this state, which have been recorded and which are defective or ineffectual:

(1) Because of failure to comply with § 18-12-403; or

(2) Because the officer who certified the acknowledgment or acknowledgments to such instruments omitted any words required by law to be in the certificate or acknowledgments; or

(3) Because the officer failed or omitted to attach his seal to such certificate; or

(4) Because the officer attached to any such certificate a seal not bearing the words and devices required by law; or

(5) Because the officer was a mayor of a city or an incorporated town in the State of Arkansas and as such was not authorized to certify to executions and acknowledgments to such instruments, or was the deputy of an official duly authorized by law to take acknowledgments but whose deputy was not so authorized; or

(6) Because the notary public failed to state the date of the expiration of his commission on the certificate of acknowledgment, or incorrectly stated it thereon; or

(7) Because the officer incorrectly dated the certificate of acknowledgment or failed to state the county wherein the acknowledgment was taken; or

(8) Because the acknowledgment was certified in any county of the State of Arkansas by any person holding an unexpired commission as notary public under the laws of the state who had, at the time of the certification, ceased to be a resident of the county within and for which he or she was commissioned; shall be as binding and effectual as though the certificate of acknowledgment or proof of execution was in due form, bore the proper seal, and was certified to by a duly authorized officer.

**16-47-109. Validation of acknowledgments of personnel of armed forces.**

All acknowledgments taken before March 20, 1945, and subscribed by officers of the United States armed forces acknowledging the signatures of soldiers in the armed forces are validated in every respect.

**16-47-110. Recorded deed or written instrument affecting real estate.**

(a) Every deed or instrument in writing which conveys or affects real estate and which is acknowledged or proved and certified as prescribed by this act may, together with the certificate of acknowledgment, proof, or relinquishment of dower, be recorded by the recorder of the county where such land to be conveyed or affected thereby is located, and when so recorded may be read in evidence in any court in this state without further proof of execution.

(b) If it appears at any time that any deed or instrument duly acknowledged or proved and recorded as prescribed by this act is lost or not within the power and control of the party wishing to use the deed or instrument, the record thereof or a transcript of the record certified by the recorder may be read in evidence without further proof of execution.

(c) Neither the certificate of acknowledgment nor the probate of any such deed or instrument, nor the record or transcript thereof, shall be conclusive, but it may be rebutted.

**SUBCHAPTER 2. UNIFORM ACKNOWLEDGMENT ACT.**

**16-47-201. Acknowledgment of instruments.**

Any instrument may be acknowledged in the manner and form provided by the laws of this state, or as provided by this act.

**16-47-202. Officials authorized to take within the state.**

The acknowledgment of any instrument may be made in this state before:

- (1) A judge of a court of record or before any former judge of a court of record who served at least four (4) or more years;
- (2) A clerk of any court of record;
- (3) A commissioner or registrar or recorder of deeds;
- (4) A notary public;
- (5) A justice of the peace; or
- (6) A master in chancery or registrar in chancery.

**16-47-203. Officials authorized to take within the United States.**

The acknowledgment of any instrument may be without the state but within the United States or a territory or insular possession of the United States and within the jurisdiction of the officer, before:

- (1) A clerk or deputy clerk of any federal court;
- (2) A clerk or deputy clerk of any court of record of any state or other jurisdiction;
- (3) A notary public;
- (4) A commissioner of deeds;
- (5) Any person authorized by the laws of such other jurisdiction to take acknowledgments.

**16-47-204. Officials authorized to take without the United States.**

The acknowledgment of any instrument may be made without the United States before:

- (1) An ambassador, minister, charge d'affaires, counselor to or secretary of a legation, consul general, consul, vice-consul, commercial attache, or consular agent of the United States accredited to the country where the acknowledgment is made.

- (2) A notary public of the country where the acknowledgment is made.
- (3) A judge or clerk of a court of record of the country where the acknowledgment is made.

**16-47-205. Proof of identity of person making.**

The officer taking the acknowledgment shall know or have satisfactory evidence that the person making the acknowledgment is the person described in and who executed the instrument.

**16-47-206. Acknowledgment by a married woman.**

An acknowledgment by a married woman may be made in the same form as though she were unmarried.

**16-47-207. Repealed § 2013-999.**

**16-47-208. Execution of certificate by officer.**

The certificate of the acknowledging officer shall be completed by his signature, his official seal if he has one, the title of his office, and if he is a notary public, the date his commission expires.

**16-47-209. Authentication of acknowledgments.**

- (a) If the acknowledgment is taken within this state or is made without this state but in the United States by one (1) of the officers designated in § 16-47-203, or without the United States by an officer of the United States, no authentication shall be necessary.
- (b) If the acknowledgment is made without the United States and by a notary public or a judge or clerk of a court of record of the country where the acknowledgment is made, the certificate shall be authenticated by a certificate under the great seal of state of the country, affixed by the custodian of such seal, or by a certificate of a diplomatic, consular, or commercial officer of the United States accredited to that country, certifying as to the official character of such officer.

**16-47-210. Acknowledgments under laws of other states.**

Notwithstanding any provision in this act contained, the acknowledgment of any instrument without this state in compliance with the manner and form prescribed by the laws of the place of its execution, if in a state, a territory or insular possession of the United States, or in the District of Columbia, or in the Philippine Islands, verified by the official seal of the officer before whom it is acknowledged, shall have the same effect as an acknowledgment in the manner and form prescribed by the laws of this state for instruments executed within the state.

**16-47-211. Validation of unauthenticated writings affecting title to property.**

All deeds, conveyances, deeds of trust, mortgages, mineral leases, marriage contracts, and other instruments in writing, affecting or purporting to affect title to any real estate or personal property situated in this state, which have been recorded or executed prior to July 19, 1971, and which may be defective or ineffectual because of the failure to have the authentication formerly required by Acts 1943, No. 169, §§ 9 and 10, prior to these amendments, shall be binding and effectual as though such instruments contained the required authentication.

**16-47-212. Act cumulative.**

This act shall be cumulative to other acts of the General Assembly relating to acknowledgments.

**16-47-213. Acknowledgments by persons serving in or with the armed forces of the United States within or without the United States.**

In addition to the acknowledgment of instruments in the manner and form and as otherwise

authorized by this act, persons serving in or with the armed forces of the United States or their dependents may acknowledge the same wherever located before any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the Army, Air Force or Marine Corps, or ensign or higher in the Navy or United States Coast Guard. The instrument shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No authentication of the officer's certificate of acknowledgment shall be required but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in the following form:

“On this ..... day of ..... , 19 ..., before me, ....., the undersigned officer, personally appeared ..... (Serial No. ....) known to me or satisfactorily proven to be (serving in or with the armed forces of the United States) (a dependent of ....., (Serial No. ....) a person serving in or with the armed forces of the United States) and to be the person whose name is subscribed to the within instrument and acknowledged that ..... he ..... executed the same for the purposes therein contained. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

.....  
Signature of the Officer

.....  
Rank and Serial No. of Officer and Command to which attached.”

**16-47-214. Acknowledgments previously taken unaffected.**

No acknowledgment heretofore taken shall be affected by anything contained in this act.

**16-47-215. Uniformity of interpretation.**

This act shall be so interpreted as to make uniform the laws of those states which enact it.

**16-47-216. Title of act.**

This act may be cited as the “Uniform Acknowledgment Act”.

**16-47-217. Validation of prior acknowledgments - Construction of uniform act.**

It is the intent and purpose of this section that all acknowledgments taken subsequent to Acts 1957, No. 411 either in accordance with the Uniform Acknowledgment Act or in accordance with the laws of this state in effect at the time of adoption of the Uniform Acknowledgment Act be cured and validated for all purposes; and that neither Acts 1957, No. 411 nor the Uniform Acknowledgment Act to which it is amendatory shall be construed to repeal or modify any laws relative to the taking of acknowledgments and the authentication thereof which were in effect in this state at the time of adoption of the Uniform Acknowledgment Act, but that the Uniform Acknowledgment Act shall be deemed to provide an alternative system for taking and authenticating acknowledgments.

**16-47-218. Validation of acknowledgments - Construction of acts.**

All acknowledgments taken subsequent to Acts 1959, No. 127 either in accordance with the Uniform Acknowledgment Act or in accordance with the laws of this state in effect at the time of adoption of the Uniform Acknowledgment Act are cured and validated for all purposes; and neither Acts 1959, No. 127 nor the Uniform Acknowledgment Act shall be construed to repeal or modify any laws relative to the taking of acknowledgments and the authentication thereof which were in effect in this state at the time of adoption of the Uniform Acknowledgment Act, but that the Uniform Acknowledgment Act shall be deemed to provide an alternative system for taking and authenticating acknowledgments.



**TITLE 18. PROPERTY**  
**SUBTITLE 2. REAL PROPERTY**  
**CHAPTER 12. CONVEYANCES**  
**SUBCHAPTER 2. ACKNOWLEDGMENTS AND PROOF OF INSTRUMENTS**

**18-12-201. Proof or acknowledgment as prerequisite to recording real estate conveyances.**

All deeds and other instruments in writing for the conveyance of any real estate, or by which any real estate may be affected in law or equity, shall be proven or duly acknowledged in conformity with the provisions of this act before they or any of them shall be admitted to record.

**18-12-202. Forms of acknowledgments -- Validity -- Acknowledgments of married persons.**

(a) (1) Either the forms of acknowledgments now in use in this state or any other forms may be used in the case of all deeds and other instruments in writing for the conveyance of real or personal property which:

(A) Specify, in the caption or otherwise, the state and county or other place where the acknowledgment is taken;

(B) Set out the name of the person acknowledging and, in instances in which he or she acknowledges otherwise than in his or her own right, the name of the person, association, or corporation for which he or she acknowledges; and

(C) Recite in substance or the equivalent that the execution of the instrument was acknowledged by the person so named as acknowledging, or any other form of acknowledgment provided by law.

(2) These forms may also be used when the property is to be affected in law or equity and also in any other case in which such an acknowledgment is for any purpose required or authorized by law.

(3) An acknowledgment in any of these forms shall be sufficient to entitle the instrument to be recorded and to be read in evidence.

(b) The acknowledgment of a married person, both as to the disposition of his or her own property and as to the relinquishment of dower, curtesy, and homestead in the property of a spouse, may be made in the same form as if that person were sole and without any examination separate and apart from a spouse, and without necessity for a specific reference therein to the interest so conveyed or relinquished.

**18-12-203. Officers authorized to take proof or acknowledgment of real estate conveyances.**

(a) The proof or acknowledgment of every deed or instrument of writing for the conveyance of any real estate shall be taken by one (1) of the following courts or officers:

(1) When acknowledged or proved within this state, before the Supreme Court, the circuit court, or any justices or judges thereof, the clerk of any court of record, any county judge, or before any notary public;

(2) When acknowledged or proved outside this state, and within the United States or its territories, or in any of the colonies or possessions or dependencies of the United States, before any court of the United States, or any state or territory, or colony or possession or dependency of the United States, having a seal, or a clerk of any such court, or before any notary public, or before the mayor of any incorporated city or town, or the chief officer of any city or town having a seal, or before a commissioner appointed by the Governor; and

(3) When acknowledged or proved outside the United States, before any:

(A) Court of any state, kingdom, or empire having a seal;

(B) Mayor or chief officer of any city or town having an official seal; or

(C) Officer of any foreign country who by the laws of that country is authorized to take probate of the conveyance of real estate of his or her own country if the officer

has, by law, an official seal.

(b) The acknowledgment of any deed or mortgage, when taken outside the United States, may be taken and certified by a United States consul.

**18-12-204. Attestation of acknowledgments.**

(a) In cases of acknowledgment or proof of deeds or conveyances of real estate taken within the United States or territories thereof, when taken before any court or officer having a seal of office, the deed or conveyance shall be attested under the seal of office. If the officer has no seal of office, then it shall be attested under the official signature of the officer.

(b) In all cases of deeds and conveyances proved or acknowledged outside the United States or their territories, the acknowledgment or proof must be attested under the official seal of the court or officer before whom the probate is had.

**18-12-205. Certificate of acknowledgment.**

(a) Any court or officer that takes a proof or an acknowledgment of any instrument affecting real property shall grant a certificate of the proof or acknowledgment.

(b) The court or officer shall cause the certificate of the proof or acknowledgment to be endorsed on the instrument affecting real property.

(c) The certificate of the proof or acknowledgment shall be signed by the clerk of the court or by the officer if he or she has a seal of office.

**18-12-206. Manner of making acknowledgment -- Proof of deed or instrument -- Proof of identity of grantor or witness.**

(a) The acknowledgment of deeds and instruments of writing for the conveyance of real estate, or whereby such real estate is to be affected in law or equity, shall be by the grantor appearing in person before a court or officer having the authority by law to take the acknowledgment and stating that he or she had executed the deed or instrument for the consideration and purposes therein mentioned and set forth.

(b) When a deed or instrument referred to in subsection (a) of this section is to be proved, it shall be done by one (1) or more of the subscribing witnesses personally appearing before the proper court or officer and stating on oath that he or she saw the grantor subscribe the deed or instrument of writing or that the grantor acknowledged in his or her presence that he or she had subscribed and executed the deed or instrument for the purposes and consideration therein mentioned, and that he or she had subscribed the deed or instrument as a witness at the request of the grantor.

(c) If any grantor has not acknowledged the execution of a deed or instrument referred to in subsection (a) of this section and the subscribing witnesses are dead or cannot be had, then the deed or instrument may be proved by the evidence of the handwriting of the grantor and of at least one (1) of the subscribing witnesses. This evidence shall consist of the deposition of two (2) or more disinterested persons, swearing to each signature.

(d) (1) When any grantor in any deed or instrument that conveys real estate or whereby any real estate may be affected in law or equity, or any witness to any like instrument, shall present himself or herself before any court or other officer for the purpose of acknowledging or proving the execution of the deed or instrument, if the grantor or witness shall be personally unknown to the court or officer, his or her identity and his or her being the person he or she purports to be on the face of such instrument of writing shall be proved to the court or officer.

(2) Proof may be made by witnesses known to the court or officer or by the affidavit of the grantor or witness if the court or officer shall be satisfied therewith. The proof or affidavit shall also be endorsed on the deed or instrument of writing.

**18-12-207. Repealed § 2013-999.**

**18-12-208. Defects.**

(a) All deeds, conveyances, deeds of trust, mortgages, marriage contracts, and other instruments in writing affecting or purporting to affect the title to any real estate or personal property situated in this state, which have been recorded and which are defective or ineffectual because:

- (1) Of failure to comply with § 18-12-403;
- (2) The officer who certified the acknowledgment or acknowledgments to such instruments omitted any words required by law to be in the certificate or acknowledgments;
- (3) The officer failed or omitted to attach his or her seal to the certificate;
- (4) The officer attached to any such certificate a seal not bearing the words and devices required by law;
- (5) The officer was a mayor of a city or an incorporated town in the state of Arkansas and as such was not authorized to certify to executions and acknowledgments to such instruments, or was the deputy of an official duly authorized by law to take acknowledgments but whose deputy was not so authorized;
- (6) The notary public failed to state the date of the expiration of his or her commission on the certificate of acknowledgment, or incorrectly stated it thereon;
- (7) The officer incorrectly dated the certificate of acknowledgment or failed to state the county wherein the acknowledgment was taken; or
- (8) The acknowledgment was certified in any county of the State of Arkansas by any person holding an unexpired commission as notary public under the laws of the state who had, at the time of the certification, ceased to be a resident of the county within and for which he or she was commissioned, shall be as binding and effectual as though the certificate of acknowledgment or proof of execution was in due form, bore the proper seal, and was certified to by a duly authorized officer.

(b) A deed, conveyance, deed of trust, mortgage, marriage contract, and other instrument in writing, affecting or purporting to affect the title to any real estate or personal property situated in this state, which is executed after August 13, 1993, shall not be deemed defective or ineffectual because:

- (1) The officer failed or omitted to attach his or her seal to the certificate;
- (2) The officer attached to any such certificate a seal not bearing the words and devices required by law;
- (3) The notary public failed to state the date of the expiration of his or her commission on the certificate of acknowledgment, or incorrectly stated it thereon;
- (4) The officer incorrectly dated the certificate of acknowledgment or failed to state the county wherein the acknowledgment was taken; or
- (5) The acknowledgment was certified in any county of the State of Arkansas by any person holding an unexpired commission as notary public under the laws of the state who had, at the time of the certification, ceased to be a resident of the county within and for which he or she was commissioned.

(c) A deed, conveyance, deed of trust, mortgage, marriage contract, and any other instrument in writing, affecting or purporting to affect the title to any real estate or personal property situated in this state, whether executed before, on, or after the effective date of this subsection, shall not be found insufficient to satisfy the requirements of § 18-12-202:

- (1) Because the acknowledgment thereof does not strictly comply with the form contained in § 16-47-107 or omits the words “for the consideration, uses, and purposes therein mentioned or set forth” or uses similar words;

- (2) Because the gender listed in the acknowledgment thereof does not match the gender of the person acknowledging the instrument;
  - (3) Because the acknowledgment thereof does not identify the title or position of the person acknowledging the instrument on behalf of a corporation, partnership, company, trust, association or other entity; or
  - (4) Where a good faith attempt at material compliance with 16-47-107(a), (b), or (c), as applicable, has been made and there is no factual dispute as to the authenticity of the signature of the person making acknowledgement thereof.
- (d) Notwithstanding an acknowledgment to a deed or other instrument which may contain one or more of the defects set forth in this section, if a deed or other instrument is recorded, it shall:
- (1) Provide constructive notice thereafter to all parties of the matters contained in the deed or other instrument; and
  - (2) Be treated as any other deed or instrument in writing under §16-47-110, and may be read into evidence in any court in this state without further proof of execution.
  - (e) A valid jurat may act as a substitute for a certificate of acknowledgment for instruments recorded on or after the effective date of this subsection.

**18-12-209. Recorded deed or written instrument affecting real estate.**

- (a) Every deed or instrument in writing which conveys or affects real estate and which is acknowledged or proved and certified as prescribed by this act may, together with the certificate of acknowledgment, proof, or relinquishment of dower, be recorded by the recorder of the county where such land to be conveyed or affected thereby is located, and when so recorded may be read in evidence in any court in this state without further proof of execution.
- (b) If it appears at any time that any deed or instrument duly acknowledged or proved and recorded as prescribed by this act is lost or not within the power and control of the party wishing to use the deed or instrument, the record thereof, or a transcript of the record certified by the recorder, may be read in evidence without further proof of execution.
- (c) Neither the certificate of acknowledgment nor the probate of any such deed or instrument, nor the record or transcript thereof, shall be conclusive, but it may be rebutted.

**TITLE 21. PUBLIC OFFICERS AND EMPLOYEES  
CHAPTER 6. FEES  
SUBCHAPTER 3. COUNTY OFFICERS**

**21-6-309. Notaries public.**

- (a) A notary public authorized to perform notarial acts in this state may charge and collect a fee for a notarial act if the fee:
  - (1) Is a reasonable amount as determined by the notary public; and
  - (2) The fee is disclosed to and agreed upon by the client or principal before executing the notarial act.
- (b)(1) A notary public who knowingly charges, demands, or receives any fees not provided by law, or who charges, demands, or receives a fee amount that violates subsection (a) of this section, is guilty of a violation.
  - (2) Upon conviction, the notary public shall be fined one hundred dollars (\$100) for each offense.

**CHAPTER 14. NOTARIES PUBLIC  
SUBCHAPTER 1. GENERAL PROVISIONS**

**21-14-101. Appointment and commission.**

- (a)
  - (1) The Secretary of State may appoint and commission an individual person as a notary public in this state.
  - (2) A notary public may perform notarial acts in any part of the state for a term of ten (10) years, beginning on the date of commission or the date of renewal of a commission issued by the Secretary of State.
- (b) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:
  - (1) That he or she is:
    - (A) One (1) of the following:
      - (i) A bona fide citizen of the United States;
      - (ii) A permanent resident alien who shall file with his or her application a recorded Declaration of Domicile;
      - (iii) A legal resident of Arkansas;
      - (iv) A legal resident of an adjoining state and employed or operating a business in the State of Arkansas; or
      - (v)
        - (a) Nonresident spouse of a United States military service member employed or operating a business in Arkansas;
        - (b) One (1) copy of a United States Department of Defense DD Form 1173 or a United States Department of Defense DD Form 1173-1, otherwise known as a Uniformed Services Identification and Privilege Card, shall be included with his or her application under this subsection;
    - (B) Eighteen (18) years of age or older; and
    - (C) Able to read and write English;
  - (2) The address of his or her place of employment, business, or residence in this state;
  - (3) That during the past ten (10) years, his or her commission as a notary public has not been revoked; and
  - (4) That he or she has not been convicted of a felony.
- (c) The application shall be sent to the Secretary of State with a fee of twenty dollars (\$20.00) for the notary public commission.
- (d) The Secretary of State may require the applicant to demonstrate that he or she has reviewed the law concerning notaries public and understands the duties of a notary public.
- (e) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or in the case of a legal resident of an adjoining state or nonresident spouse of a United States military service member, in the county in Arkansas of his or her place of employment or business, either:
  - (1) A surety bond executed by a surety insurer authorized to do business in Arkansas to the state for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or
  - (2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:
    - (A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;
    - (B) Has previously deposited and thereafter maintains with the commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the

State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and

(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

(f) (1) The obligation of an issuer of a bond required by subsection (e) of this section:

(A) Shall be solely to the State of Arkansas; and

(B) Is solely for the benefit of the State of Arkansas.

(2) Under no circumstances shall the aggregate liability of the issuer exceed the amount of the bond.

(3) An employer shall not cancel a surety bond of a current or former employee even if the employer paid for the surety bond on behalf of the employee.

(g) (1) Every notary public shall sign the following declaration in the presence of the circuit clerk for the county where the notary public resides or if a legal resident of an adjoining state or a nonresident spouse of a United States military service member, the circuit clerk for the county in Arkansas of his or her place of employment or business:

“I, (name of notary), solemnly swear or affirm that I have carefully read the notary laws of this state, and I will uphold the Constitutions of the United States and the State of Arkansas and will faithfully perform to the best of my ability all notarial acts in accordance with the law. (Signature of notary) \_\_\_\_\_

Subscribed and sworn to before me (name of circuit clerk), Circuit Clerk for the County of (name of county), State of Arkansas, on this \_\_\_\_\_ day of \_\_\_\_\_, (year).

\_\_\_\_\_(Signature of circuit clerk)”.

(2) The notary public shall send an executed and signed original of the declaration to the Secretary of State.

(h) The Secretary of State shall issue a commission number to each new notary public and to each notary public who renews his or her commission.

#### **21-14-102. Change of residence.**

(a)

(1) Upon receiving notification of a change of residency, the Secretary of State shall transfer a notary public’s appointment and commission to the new county of residence in instances in which a person appointed and commissioned a notary public under § 21-14-101 changes residence to a county within this state other than the county where the notary public resided on the date of commission.

(2) Upon receiving notification of a change in place of employment, the Secretary of State shall transfer a notary public’s appointment and commission to the new county of employment in the case of a legal resident of an adjoining state or a nonresident spouse of a United States military service member changing his or her place of employment to a county within this state other than the county where the notary public was employed on the date of commission.

(b) The original bond or certified copy of the original bond from the original county of residence shall also be filed by the notary public in the new county of residence or if the notary public is a legal resident of an adjoining state or a nonresident spouse of a United States military service member, in the new county of employment in Arkansas.

#### **21-14-103. Change in personal information.**

(a) If any notary public has a change in his or her mailing address or status in life that alters the information on record with the Secretary of State and the circuit clerk for the county where the notary public resides or if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed, the notary public shall

be responsible for providing that change of information to the Secretary of State and the circuit clerk within thirty (30) calendar days of the change.

(b) If the change in status involves a court order, the notary public shall be responsible for providing the Secretary of State with a certified copy of the court order within thirty (30) calendar days of the filing of the court order with the clerk.

(c) If the notary public marries and the notary public's name changes, a certified copy of the marriage certificate shall be delivered to the office of the Secretary of State and the circuit clerk for the county where the notary public resides or if the notary public is a resident of an adjoining state, the circuit clerk for the county in Arkansas where he or she is employed.

#### **21-14-104. Power and authority generally.**

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

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

#### **21-14-105. Administration of oaths.**

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

#### **21-14-106. Acknowledgments and authentications.**

- (a) A notary public may:
  - (1) Take the proof or the acknowledgment of all instruments of writing relating to commerce and navigation;
  - (2) Receive and authenticate acknowledgments of deeds, letters of attorney, and other instruments of writing;
  - (3) Make declarations and protests; and
  - (4) Certify under his or her official seal the truth of all matters and things done by virtue of his or her office.
- (b) A notary public may supervise the making of a photocopy of an original document and attest that the document is a copy if the document is not:
  - (1) A vital record in this state, another state, a territory of the United States, or another country; or
  - (2) A public record, if a copy can be made by the custodian of the public record.

#### **21-14-107. Signature -- Seal.**

- (a)
  - (1) At the time of notarization, the notary public shall sign his or her official signature in blue or black ink on every notary certificate.
  - (2) The official signature is the signature on file with the Secretary of State at the time of signing.
  - (3) A notary public may refuse to perform a notarial act for any reason, including when the principal:
    - (A) Does not appear to understand the nature of the transaction that requires the notarial act;
    - (B) Does not appear to be acting of his or her own free will;
    - (C) Lacks the ability to sign a notarial document using letters or characters of a

- language that is understood by the notary public; or
- (D) Is not able to communicate directly with the notary public in a language understood by the principal and the notary public.
- (4) (A) A signature by mark on a notarial document is legal for the purposes of executing the notarial document if the mark is:
- (i) Made by a person who at the time of signature lacks the ability to write or sign his or her name; and
  - (ii) Witnessed by at least one (1) disinterested person.
- (B) The notary public shall write below a signature by mark: “Mark affixed by (Name of signer by mark) in the presence of (name(s) of witnesses)”.
- (5) When a principal is physically unable to sign or make a mark on a notarial document, a disinterested third party may sign the name of the principal if:
- (A) The principal directs the disinterested third party to sign the name of the principal in the presence of two (2) disinterested witnesses;
  - (B) The disinterested third party signs the name of the principal in the presence of the notary public, the principal, and the disinterested witnesses;
  - (C) Each disinterested witness signs his or her own name beside the signature;
  - (D) The notary public writes below the signature: “Signature affixed by (name of third party) at the direction and in the presence of (name of principal unable to sign or make a mark) and also in the presence of (names of two witnesses)”;
  - (E) The notary public notarizes the required notarial certificate.
- (b)
- (1) Under or near a notary public’s official signature on every notary certificate, the notary public shall provide a seal of his or her office in blue or black ink, which shall be either a rubber stamp seal or a seal embosser. The seal shall be clear and legible and capable of photographic reproduction.
  - (2) The seal shall include:
    - (A) The notary public’s name exactly as he or she writes his or her official signature;
    - (B) The name of the county where the notary public’s bond is filed;
    - (C) The words “notary public” and “Arkansas”;
    - (D) The date upon which the notary public’s commission expires; and
    - (E) The notary public’s commission number issued by the Secretary of State if the notary public has been issued a commission number.
- (c) A notary seal shall not include the Seal of the State of Arkansas or an outline of the state.
- (d) The seal and certificate of the notary public commission are the exclusive property of the notary public and must be kept in the exclusive control of the notary public.
- (e) The seal and certificate of the notary public commission shall not be surrendered to an employer upon termination of employment, regardless of whether or not the employer paid for the seal or for the commission.
- (f) (1) (A) For a notarial act involving a document, a notary public shall complete a notarial certificate that is worded in English.
- (B) The notarial certificate shall include:
    - (i) The official signature of the notary public as described in subdivision (a)(1) of this section;
    - (ii) The official seal of the notary as described in subdivision (b)(1) of this section;
    - (iii) The venue of the notarial act, including the name of the state and county; and
    - (iv) The date of the notarial act.
- (2) A notarial certificate is incomplete if:
- (A) The information within the notarial certificate is known or believed by the notary



public to be false;

(B) A notary public affixes an official signature or seal on a notarial certificate that is incomplete under subsection (a) or subsection (b) of this section;

(C) An official signature or seal on a notarial certificate is known to be executed at a time when the principal or signer was not present; or

(D) A signed or sealed notarial certificate is executed with the understanding that the notarial certificate will be completed or attached to a document outside of the presence of the notary public.

#### **21-14-108. Expiration date of commission.**

(a)

(1) Every notary public shall attach to any certificate of acknowledgment or jurat to an affidavit that he or she may make a statement of the date on which his or her commission will expire.

(2) No acknowledgment or other act of a notary public shall be held invalid on account of the failure to comply with this section.

(b) No notary public shall perform any official act after the expiration of his or her commission as evidenced by his or her certificate.

(c) Sixty (60) calendar days prior to the expiration of a notary public's commission, he or she shall submit to the Secretary of State a new application along with the fee of twenty dollars (\$20.00) for the renewal of the commission.

(d) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or if the notary public is a resident of an adjoining state, in the office of the recorder of deeds for the county in Arkansas where employed, either:

(1) A surety bond executed by a surety insurer authorized to do business in Arkansas for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the Secretary of State; or

(2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars (\$7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:

(A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;

(B) Has deposited and maintains with the commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and

(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.

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

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

(b) It shall be unlawful for any notary public to take the acknowledgment of an instrument executed by or to a bank or other corporation of which he or she is a stockholder, director, officer, or employee where the notary public is a party to the instrument, either individually

or as a representative of the corporation, or to protest any negotiable instrument owned or held for collection by the corporation, where the notary public is individually a party to the instrument.

**21-14-110. Admissibility of acknowledged instruments.**

All declarations and protests made and acknowledgments taken by a notary public and certified copies of the notary public's records and official papers shall be received as evidence of the facts therein stated in all the courts of this state.

**21-14-111. Unlawful act -- Penalty -- Definition.**

(a) It is unlawful for any notary public to witness any signature on any instrument unless the notary public either:

(1) Witnesses the signing of the instrument and personally knows the signer or is presented proof of the identity of the signer; or

(2) Recognizes the signature of the signer by virtue of familiarity with the signature.

(b) Any notary public violating this section shall be guilty of a Class A misdemeanor.

(c) For purposes of this section, "personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable certainty.

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

(a) The Secretary of State may deny the application of any person for appointment or reappointment or revoke the commission of any notary public during the notary public's term of appointment if the notary public:

(1) Submits an application for commission and appointment that contains substantial and material misstatement or omission of fact;

(2) Is convicted of official misconduct under the provisions of § 21-14-111;

(3) Knowingly uses false or misleading advertising in which the notary public represents that the notary public has powers, duties, rights, or privileges that the notary public does not possess by law;

(4) Is found by a court of this state to have engaged in the unauthorized practice of law;

(5) Is found by a court to have improperly notarized documents according to the law;

(6) Is found by a court to have charged fees higher than allowed under § 21-6-309; or

(7) Fails to complete the requirements under § 21-14-101.

(b) The Secretary of State may investigate a possible violation of this section upon a signed complaint from any person.

(c) After a notary public receives notice from the Secretary of State that the notary public's commission has been revoked, unless the revocation has been enjoined the notary public shall immediately send or have delivered to the Secretary of State:

(1) The notary public's journal of notarial acts;

(2) All other papers and copies relating to the notary public's notarial acts; and

(3) The notary public's official seal.

(d) A person whose notary public commission has been revoked pursuant to the provisions of this section may subsequently apply for commission and appointment as a notary public after ten (10) years have elapsed from the date of the revocation.

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

(a) If the Secretary of State revokes a notary public commission, he or she shall serve the notary public with written notice that explains the reason or reasons for the revocation.

(b)

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

#### **21-14-114. Rules.**

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

### **SUBCHAPTER 2. FACSIMILE SIGNATURES AND SEALS**

#### **21-14-201. Definitions.**

As used in this subchapter:

- (1)
  - (A) "Commercial document" means any instrument, certificate, report, billing, affidavit, or other document which is required to bear a notary certificate by the terms of a purchase order, contract, bid specification, construction standard, testing standard, or other commercial standard, specification, or practice.
  - (B) The term "commercial document" shall not include any deed or other instrument in writing for the conveyance of any real estate or by which any real estate may be affected in law or equity;
- (2) "Facsimile seal" means the reproduction by engraving, imprinting, stamping, or other means of the seal of office of a notary public, containing the information described in § 21-14-107(b)(2); and
- (3) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of a manual signature of a notary public.

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

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

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

#### **21-14-203. Expiration and resignation.**

- (a) Any filing by a notary public with the Secretary of State under the terms of this subchapter shall remain in effect until the earlier of:
  - (1) The date on which the notary public's commission in effect on the date of filing expires;
  - (2) The filing is cancelled by the notary public by subsequent written filing with the Secretary of State; or

- (3) The filing is cancelled pursuant to § 21-14-113.
- (b) (1) A notary public shall send a signed letter of resignation to the Secretary of State and shall return his or her certificate of notary public commission when the notary public:
  - (A) Wishes to resign his or her commission;
  - (B) Does not maintain legal residence or employment in this state during the entire term of appointment; or
  - (C) Is required to resign pursuant to a court order of this state or any other state.
- (2) The resigning notary public shall destroy his or her official seal immediately upon resignation.

**21-14-204. Duties of notary public.**

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

**21-14-205. Force and effect.**

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

**SUBCHAPTER 3. ARKANSAS ELECTRONIC NOTARY PUBLIC ACT**

**21-14-301. Title.**

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

**21-14-302. Definitions.**

As used in this subchapter:

- (1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- (2) "Electronic document" means information that is created, generated, sent, communicated, received, or stored by electronic means;
- (3)
  - (A) "Electronic notarial act" means an official act by a notary public performed with respect to an electronic document and using electronic means authorized by the Secretary of State.
  - (B) "Electronic notarial act" includes:
    - (i) Taking an acknowledgment;
    - (ii) Administering an oath or affirmation;
    - (iii) Taking a verification on oath or affirmation;
    - (iv) Witnessing or attesting a signature;
    - (v) Certifying or attesting a copy; and
    - (vi) Noting a protest of a negotiable instrument;
- (4) "Electronic notarial certificate" means the portion of a notarized electronic document that:
  - (A) Is completed by the notary public;
  - (B) Bears the following of the notary public:
    - (i) Signature or official electronic seal;

- (ii) Official title;
  - (iii) Commission number;
  - (iv) Commission expiration date; and
  - (v) All required information regarding the date and place of the electronic notarial act; and
- (C) States the facts attested to or certified by the notary public in an electronic notarization;
- (5) “Electronic notary seal” or “official electronic seal” means information within a notarized document that includes:
- (A) The following information about the notary public:
    - (i) Name;
    - (ii) Jurisdiction of appointment;
    - (iii) Commission number; and
    - (iv) Commission expiration date; and
  - (B) Information that generally corresponds to dates in notary public seals utilized on paper documents under § 21-14-107;
- (6) “Electronic notary public” means a notary public who has registered with the Secretary of State and possesses the capability of performing electronic notarial acts and online notarial acts;
- (7) “Electronic signature” means an electronic sound, symbol, or process attached to an electronic document and executed or adopted by a person with the intent to sign the electronic document;
- (8) “Non-repudiation” means the inability of the signer of an electronic document to deny his or her electronic signature without a factual basis;
- (9) “Notary public electronic signature” means the forms of electronic signatures that have been approved by the Secretary of State as an acceptable means for an electronic notary to affix his or her official signature to an electronic record that is being notarized;
- (10) “Physical proximity” means the principal and the notary public are physically close enough to see, hear, communicate, and give identification credentials to each other without reliance on an electronic device such as a telephone, computer, video camera, or facsimile machine;
- (11) “Registration” or “register” means a separate commission to perform electronic notarial acts under the laws of this state;
- (12) “Solution provider” means a business entity that has submitted an application, meets standards, and has been approved by the Secretary of State to offer electronic notarial acts or online notarial acts or solutions to duly commissioned electronic notaries public;
- (13) “Tamper-evident” means any changes to an electronic document that display evidence of the change;
- (14) “Traditional notary public” means a person commissioned by the Secretary of State to perform notarial acts under this chapter; and
- (15) “Unique to the electronic notary public” or “under the sole control” means the device or system the notary uses to sign and seal the document that is accessible only by the notary, attributed to the notary, and not any other person or entity.
- (16) “Communication technology” means an electronic device or process that:
- (A) Allows an online notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and
  - (B) If applicable, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment;
- (17) “Credential analysis” means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the validity of a

government-issued identification credential through review of public and proprietary data sources;

(18) “Credible witness” means an individual appearing before an online notary public by means of communication technology who identifies the principal and:

(A) Is personally known to the online notary public; or

(B) Can be identified by the online notary public on the basis of remote presentation by the individual of a government-issued identification credential, including without limitation a passport or state- issued driver’s license, that contains the signature and a photograph of the individual;

(19) “Foreign state” means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe;

(20) “Identity proofing” means a process or service operating according to criteria approved by the Secretary of State through which a third person affirms the identity of an individual through review of personal information from public and proprietary data sources;

(21)(A) “Online notarial act” means a notarial act performed by means of communication technology.

(B) “Online notarial act” includes:

(i) Taking an acknowledgment;

(ii) Administering an oath or affirmation;

(iii) Taking a verification on oath or affirmation;

(iv) Witnessing or attesting a signature; and

(v) Certifying or attesting a copy;

(22) “Online notary public” means an electronic notary public who has been authorized by the Secretary of State to perform online notarial acts;

(23) “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;

(24) “Principal” means an individual:

(A) Whose electronic signature is notarized through an online notarization; or

(B) Taking an oath or affirmation from the online notary public but not in the capacity of a witness for the online notarization;

(25) “Remote presentation” means a transmission to the online notary public through communication technology of an image of a government- issued identification credential that is of sufficient quality to enable the online notary public to:

(A) Identify the individual seeking the online notary public’s services; and

(B) Perform credential analysis; and

(26) “Remotely located individual” means an individual who is not within physical proximity to a notary public.

### **21-14-303. Appointment and commission.**

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

### **21-14-304. Registration and application.**

(a) (1) The Secretary of State shall require a notary public to register the capability to notarize electronically or online before performing an electronic notarial act.

(2) A person who seeks to become an electronic notary public or an online notary public shall submit to the Secretary of State:

(A) An application stating the intent to become an electronic notary public or an

- online notary public on a form provided by the Secretary of State;
  - (B) An attestation that he or she has not been convicted of a felony; and
  - (C) A filing fee of twenty dollars (\$20.00).
- (b) An applicant shall:
- (1) Successfully complete an approved training course provided by the Secretary of State; and
  - (2)
    - (A) Pass an examination approved by the Secretary of State.
    - (B) An applicant may attend the examination up to two (2) times in a twelve-month period.
    - (C) If the applicant does not pass the examination during the time period in subdivision (b)(2)(B) of this section, he or she shall repeat the application process under this section.
- (c) The Secretary of State shall promulgate rules to enforce the requirements under subdivision (a)(1) of this section.

**21-14-305. Term and renewal.**

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

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

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

notarial act.

(2) The electronic notary public shall not disclose access information used to affix the electronic signature of the electronic notary public except when requested by:

- (A) Law enforcement;
- (B) The courts; or
- (C) An electronic document preparation and transmission vendor.

(3) Control of security aspects remains under the sole control of the commissioned electronic notary public, and include without limitation:

- (A) Passwords;
- (B) Token devices;
- (C) Biometrics;
- (D) Personal identification numbers; and
- (E) Phrases.

(e) The liability, sanctions, and remedies for the improper performance of electronic notarial acts are the same under the law for the improper performance of a notarial act performed by a traditional notary public under §§ 21-14-111 -- 21-14-113.

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

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

(b)

(1) The methods for identifying a document signer for an electronic notarial act shall be the same as the methods required for a paper-based notarization under this chapter.

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

(c) This section does not apply to online notarial acts as described in § 21-14-309.

**21-14-308. Fees.**

(a) An electronic notary public may charge and collect fees that are:

- (1) Reasonably established by the electronic notary public; and
- (2) Disclosed and agreed upon by the client and principal before the electronic notarial act occurs.

(b)

(1) An electronic notary public who knowingly charges, demands, or receives a fee not authorized by law or who charges, demands, or receives a fee greater than provided under this section is guilty of a violation.

(2) Upon conviction, he or she shall be fined in a sum not less than one hundred dollars (\$100) for each offense.

**21-14-309. Online notarization process.**

(a) An electronic notary public may perform an online notarial act through a solution provider by means of communication technology under this subchapter if:

(1) The online notary public is physically located within this state but regardless of whether or not the principal is a remotely located individual at the time of the online notarial act;

(2) The online notary public:

- (A) Is able to verify the principal's identity according to subsection (c) of this section;



- (B) Is able to reasonably confirm that a record before the notary public is the same record on which the principal made a statement or on which the principal executed a signature; and
- (C) Creates an audio-visual recording of the performance of the online notarial act or designates an individual to do this on behalf of the online notary public;
- (3) For a remotely located individual located outside the United States, an online notary public confirms that the record:
  - (A) 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; or
  - (B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
- (4) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.
- (b)(1) In performing an online notarial act, a notary public shall verify the identity of a person creating an electronic signature at the time that the electronic signature is taken by using communication technology that meets the requirements of this subchapter.
  - (2) Identity may be verified by:
    - (A) A notary public's personal knowledge of the person creating the electronic signature;
    - (B) Satisfactory evidence of the identity of the principal from a credible witness; or
    - (C) Each of the following:
      - (i) Remote presentation by the person creating the electronic signature of a government-issued identification credential, including without limitation a passport or a state-issued driver's license, that contains the signature and a photograph of the person;
      - (ii) Credential analysis; and
      - (iii) Identity proofing.
  - (c) A notary public shall take reasonable steps to ensure that the communication technology used in an online notarial act is secure from unauthorized interception.
  - (d) The electronic notarial certificate for an online notarial act shall include a notation that the notarization is an online notarization.

**21-14-310. Electronic record of online notarial acts.**

- (a)(1) An electronic notary public performing an online notarial act shall keep a secure electronic record of electronic documents notarized.
  - (2) The electronic record shall contain for each online notarial act:
    - (A) The date and time of the online notarial act;
    - (B) The type of online notarial act;
    - (C) The type, the title, or a description of the electronic document or proceeding;
    - (D) The printed name and address of each principal involved in the transaction or proceeding;
    - (E) Evidence of identity of each principal involved in the transaction or proceeding in the form of:
      - (i) A statement that the person is personally known to the online notary public;
      - (ii) A notation of the type of identification document provided to the online notary public;
      - (iii) A record of the identity verification made under § 21-14-309, if applicable; or
      - (iv) The following:
        - (a) The printed name and address of each credible witness swearing to or affirming the person's identity; and

- (b) For each credible witness not personally known to the online notary public, a description of the type of identification documents provided to the online notary public;
  - (F) A recording of any video and audio conference that is the basis for satisfactory evidence of identity and a notation of the type of identification presented as evidence;
  - (G) An audio and video copy of the performance of the notarial act; and
  - (H) The fee, if any, charged for the notarization.
- (b) A notary public shall take reasonable steps to:
- (1) Ensure the integrity, security, and authenticity of online notarial acts;
  - (2) Maintain a backup for the electronic record required by subsection (a) of this section; and
  - (3) Protect the backup record from unauthorized use.
- (c) The electronic record required by subsection (a) of this section shall be maintained for at least five (5) years after the date of the transaction or proceeding.

**21-14-311. Termination of electronic notary public’s commission.**

- (a)(1) Except as provided by subsection (b) of this section, an electronic notary public whose commission terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the electronic notary public’s official electronic signature or seal.
- (2) An electronic notary public shall certify his or her compliance with subdivision (a)(1) of this section to the Secretary of State.
- (b) A former electronic notary public whose commission terminated for a reason other than revocation or a denial of renewal is not required to destroy the items described in subsection (a) of this section if the former online notary public is recommissioned as an electronic notary public with the same electronic signature and seal within three (3) months after the former electronic notary public’s former commission terminated.

**21-14-312. Wrongful possession, concealment, or destruction of software or hardware — Criminal offense.**

- (a) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling an online notary public to affix an official electronic signature or seal commits an offense.
- (b) An offense under this section is a Class D felony.

**21-14-313. Recording of electronic record.**

- (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 use of a paper copy of an electronic document that complies with this subchapter.
- (b) If a law requires, as a condition for recording, that a document be signed, then the requirement is satisfied by an electronic signature.
- (c)(1) 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.
- (2) A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature if the online notary public has attached a notarial certificate that meets the requirements of this chapter.

**21-14-314. Rules.**

The Secretary of State may promulgate rules to administer this subchapter.

**TITLE 25. STATE GOVERNMENT.**  
**CHAPTER 31. ELECTRONIC RECORDS AND SIGNATURES**

**25-31-101. Short title.** This chapter shall be known and may be cited as the “Arkansas Electronic Records and Signatures Act”.

**25-31-102. Construction.** The provisions of this chapter shall be construed to promote the development of electronic government and electronic commerce. The Secretary of State shall develop guidelines for the use of electronic signatures and provide a register of electronic signature verification companies.

**25-31-103. Definitions.** As used in this chapter the term:

(1) “Electronic signature” means an electronic or digital method executed or adopted by a party with the intent to be bound by or to authenticate a record, which is:

(A) Unique to the person using it;

(B) Capable of verification;

(C) Under the sole control of the person using it; and

(D) Linked to data in such a manner that if the data are changed the electronic signature is invalidated;

(2) “Electronic signature verification company” means a company providing verification of an electronic signature. An electronic signature verification company shall obtain a surety bond in the amount of two hundred fifty thousand dollars (\$250,000);

(3) “Person” means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity and also includes any department, agency, authority, or instrumentality of the state or its political subdivisions; and

(4) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. “Record” includes both electronic records and printed, typewritten, and tangible records.

**25-31-104. Agreement to electronic record or signature.**

(a) Any person may, but shall not be required to, accept or agree to be bound by an electronic record which is:

(1) Executed or adopted with an electronic signature; and

(2) Witnessed or notarized using an electronic signature, when that acceptance or agreement is otherwise required to be witnessed or notarized.

(b) When a person or other entity accepts or agrees to be bound by an electronic record as provided in this section, then any rule of law which requires:

(1) A record of that type to be in writing, shall be deemed satisfied;

(2) A signature, shall be deemed satisfied; and

(3) A witness or notary, shall be deemed satisfied by the electronic signature of the witness or notary.

**25-31-105. Unauthorized use of electronic signature.**

(a) A person whose electronic signature is used in an unauthorized fashion may recover or obtain any or all of the following against the person who engaged in such an unauthorized use, provided that the use of the electronic signature in an unauthorized fashion was negligent, reckless, or intentional:

(1) Actual damages;

(2) Equitable relief, including, but not limited to, an injunction or restitution of money or

- property;
- (3) Punitive damages under the circumstances set forth in Arkansas law;
  - (4) Reasonable attorney's fees and expenses; and
  - (5) Any other relief which the court deems proper.
- (b) Nothing in this section shall preclude criminal sanctions.
- (c) Nothing in this section shall be deemed to waive the sovereign immunity otherwise provided by law to the state or any of its political subdivisions.

## **CHAPTER 32. UNIFORM ELECTRONIC TRANSACTIONS ACT**

### **25-32-111. Notarization and acknowledgment.**

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the 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.