



Arkansas Notary Public & eNotary Handbook



Secretary of State
John Thurston



JOHN THURSTON

ARKANSAS SECRETARY OF STATE

Dear Notary Public:

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

The handbook explores issues including:

- Proper notary practices
- Notarial powers and responsibilities
- Notary supplies
- Application and renewal process
- Changes to personal information
- Proper Notarization Procedures
- Errors to avoid as a notary public
- Electronic and Remote Online notarization

If you need additional information or have questions, please contact the Arkansas Secretary of State Business and Commercial Services Division at 501-682-3409, 1-888-233-0325, or e-mail notary@sos.arkansas.gov. Statutes referred to in this booklet may be viewed at www.arkleg.state.ar.us under the "Arkansas Code" tab.

Sincerely,

A handwritten signature in cursive script that reads "John Thurston".

John Thurston
Secretary of State

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What is a Notary Public?

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

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

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

A notary is authorized by law to perform certain notarial acts. Each notarial act has legal significance and affects the legal rights of others. Statutes referred to in this booklet may be viewed at www.arkleg.state.ar.us under the “Arkansas Code” tab.

Application and Renewal Process

Qualification

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

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

Application

Step 1: Obtain Surety Bond

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

Step 2: Notary Management System Account

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

Step 3: Complete Exam

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

Step 4: Complete the Secretary of State Application

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

Step 5: Submit your Application

- Return your completed application with your original signature, copy of the surety bond, and \$20 application fee to the Secretary of State's Office.

- If you are a nonresident spouse of a United States military service member employed or operating a business in Arkansas, you will need to include the following in addition to the above mentioned items:
 - 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.
- This may be submitted by mail or in person. Please allow 2-4 weeks for processing.
- If an email address was provided on the application, you will receive a notification when your application has been accepted and processed.
- The corresponding hard copy documents will be mailed to you via the United States Postal System. Allow 7-10 business days for delivery.
- We can only accept original applications, do not mail a photocopy of the application.
- To avoid the risk of rejection:
 - Ensure that the notary who notarizes your application is in good standing and that they correctly notarize the affidavit at the bottom of the application.
 - Ensure that the name printed on the bond, printed on the application, and signed on the application match. All three names must be identical.

Address:

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

Step 6: Certificate of Commission and Oath of Commission

- If your application is approved, you will be issued two (2) oath of commission certificates.
- Review the oath of commission certificates for accuracy:
 - Name spelled correctly;
 - Proper county of commission;

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

Step 7: County's recorder of deeds

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

Step 8: Secretary of State

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

Step 9: Seal of Office

- After you receive your notary identification card, you may purchase your official seal of office. (See page 7 for notary seal requirements.)
- You will purchase your stamp from the company of your choosing. The Secretary of State's Office does not make or issue stamps.
Note: Many stamp makers will want to see a completed oath certificate and/or identification card before issuing the seal of office.

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

Renewal

A notary's commission is for a term of ten (10) years. An application for renewal may be submitted no earlier than sixty (60) days before the expiration date of the current commission. If your commission has been expired for more than 60 days you must register as a new (rather than renewal) notary.

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

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

Changes in Personal Information

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

Changes to name

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

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

Change of address

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

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

Arkansas notaries who live out of state

Arkansas notaries who live out of state but have a notary commission based upon their employer's information must submit a change of personal information form and have their commission transferred to the new county of employment in Arkansas. An Arkansas notary commission for an out of state resident is only valid as long as they maintain employment in Arkansas or, if a nonresident spouse of a United States military service member, maintain employment or operate a business in Arkansas.

Change in county

After the notary informs the Secretary of State that their county of commission has changed, they will need to notify the circuit clerk in their previous county of commission. The Secretary of State's Office will issue a certificate verifying the change of the notary's county of commission. The notary must present this certificate to the circuit clerk in the original county of commission. The circuit clerk will return the notary's original bond.

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

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

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

Notary Supplies

Seal of office

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

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

The seal of office may NOT include:

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

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

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

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

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

Facsimile signature

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

Notary register or journal

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

Suggested Format:

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

Powers and Duties

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

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

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

Except as provided for certain electronic notarizations, (see “**Physical Proximity**” Page 22), personal, physical appearance before the notary is required. This means the signer(s) and the notary public are physically close enough to see, hear, communicate, and give identification credentials to each other without reliance on an electronic device such as a telephone, computer, video camera, or facsimile machine.

Identification

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

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

Notarial Acts

Oaths

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

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

Sample oath to administer to corporate officials:

State of Arkansas

County of _____

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

Signature of Person Taking the Oath

[Seal of Office]

Signature of Notary

Acknowledgments

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

Suggested Form for Acknowledgment:

State of Arkansas

County of _____

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

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

Signature of Notary Public

[Seal of Office]

My Commission expires: _____

Affidavits

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

Suggested Form for Affidavits:

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

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

Signature of Affiant

State of Arkansas

County of _____

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

Signature of Notary Public

[Seal of Office]

My commission expires: _____

Depositions

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

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

Photocopies

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

Examples of Vital Records:

- Birth certificates
- Death certificates

Examples of Public Records:

- Marriage license
- Divorce decree
- Court order

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

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

Sample wording for certifying photocopies:

State of Arkansas

County of _____

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

Notary's Signature

My commission expires: _____

[Seal of Office]

Using a Mark to Sign

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

- The mark is made in the presence of the notary
- The mark is witnessed by at least one (1) disinterested person
- The notary public writes below the signature done by mark:

“Mark affixed by (name of signer by mark) in the presence of (name(s) of witnesses)”

Physically Unable to Sign

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

- The original signer directs the disinterested third party to sign the name of the principal in the presence of two (2) disinterested witnesses and the notary
- Each disinterested witness signs his or her name beside the signature in the presence of the notary
- The notary public writes below the signature:

“Signature affixed by (name of third party) at the direction and in the presence of (name of principal unable to sign or make a mark) and also in the presence of (names of two witnesses)”

- The notary public properly notarizes the completed notarial certificate

Proper Notarization Procedures

Before Notarizing A Document

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

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

Complete Notarial Certificate

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

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

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

Example:

State of Arkansas

County of [Where You're Witnessing The Signature]

4. The date of the notarial act

Mistakes with the Acknowledgment Statement

In an Acknowledgment Statement, a notary is verifying who is signing the document and when and where the signing takes place. When completing an Acknowledgment Statement, you as the notary public must witness the signature.

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

Example:

Signature you personally witness

Printed name of signature

State of Arkansas

County of _____

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

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

Signature of Notary Public _____ Jane Doe _____

[Seal of Office]

My commission expires (Print Commission Expiration Date)

Incomplete Notarial Certificates

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

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

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

Correct:

State of Arkansas

County of _____

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

Jane Doe

Signature of Notary Public

[APPLICATION OF SEAL]

Incorrect:

Jane Doe

Signature of Notary Public

[APPLICATION OF SEAL]

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

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

Example:

Signature of signer #1

Signature of signer #2

State of Arkansas

County of _____

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

Signature of Notary Public _____ Jane Doe _____

My commission expires: _____ [Seal of Office]
(Print Commission Expiration Date)

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

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

Notario Publico

In 2005, the Arkansas General Assembly enacted legislation regarding notaries who advertise as “notario,” “notario publico,” or other similar terms. (*See A.C.A. § 4-109-101 et seq.*) Those notaries are required to include in the advertisement the following notice in both English and Spanish:

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

Notarial Acts for a Corporation:

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

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

Fees

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

Penalty/Revocation

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

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

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

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



Electronic
Notarizations

Electronic Notarizations

What is an electronic notary public?

An eNotary is a Notary Public who notarizes documents electronically via the use of a digital signature and digital notary seal to notarize digital documents and validate with a digital certificate. This can be done in-person or remotely (also known as remote online notarization or RON) using an approved RON solution provider.

What is electronic notarization?

This refers to notarizing a document by means of an electronic signature — using an electronic process to “sign” an electronic document. Approved RON technology also includes secure video capabilities, identity proofing, credential analysis tools, and a recording of the notarial act.

How is this done in Arkansas?

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

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

You will find a list of approved solution providers on the Secretary of State’s website. Some providers offer both eNotary and RON solutions. After you have received your certificate of electronic commission from the Secretary of State’s Office, you may apply to the solution provider of your choice.

Each solution provider will have individual requirements and procedures. When you have registered with a solution provider, they will provide your electronic signature and seal. RON solutions include additional capabilities.

Term and Renewal

The commission for electronic notarization runs concurrently with the traditional commission, expiring on the same date. The date the electronic notary applicant successfully passes the required exam is the date upon which their electronic notary commission will begin. The term of the electronic notary commission shall not extend past the expiration date of the surety bond for the traditional notary public commission. Renewal of an electronic commission follows the same process as the original application: you must be a notary in good standing, apply to the Secretary of State’s Office, complete training and an exam through the Secretary of State’s Office, and select an electronic notary solution provider.

Refresher training required

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

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

The notary's journal

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

Notarization fees

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

What is the process for electronic notarization?

This will depend on the solution provider you choose. Some offer signature pads. Others are done by keyboard. Some solutions are restricted to computers, while others work across operating systems and platforms, so you can use your mobile device. RON solutions have secure audio/video, recording capabilities and tools to assist with identity verification as part of their solution.

Physical Proximity

The eNotary must use an approved eNotary solution provider and the eNotary and signers must be in the same physical location at the time the document is electronically signed and notarized. An eNotary that utilizes approved remote online notarization (RON) solution providers must be in Arkansas but do not have to be in the physical presence of the signer(s).

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

Notarial Certificate is required

Standard notary practices still apply to electronic notarizations. Simply adding an electronic signature to a document is not a notarization. The document must include a section stating what you are doing: a certificate of affidavit, etc. Your solution provider may have options including prepared certificates to add to a document for signing. Please review pages 13-17 of this handbook for more information.

Verification of identity is required

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

The electronic notary public shall not under any circumstances base identification merely upon familiarity with the electronic signature of the signer or an electronic verification process that authenticates the electronic signature of the signer when the signer is not in the physical presence of the electronic notary public. RON solution providers use identity proofing and credential analysis tools to assist in verifying identity.

Change of Information

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

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

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

Denial or revocation of electronic commission

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

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

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

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

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

Glossary of Electronic Notary Terms

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

Communication technology: an electronic device or process that allows an online notary public and remotely located individual to communicate with each other simultaneously by sight and sound.

Credential analysis: 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.

Credible witness: an individual appearing before an online notary public by means of communication technology who identifies the principal and is personally known to the online notary public or can be identified by the online notary public on the basis of remote presentation by the individual of a government-issued identification credential.

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

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

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

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

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

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

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

Identity proofing: 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.

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

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

Online notarial act: a notarial act performed by means of communication technology.

Online notary public: an electronic notary public who has been authorized by the Secretary of State to perform online notarial acts.

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

Real-time audio and visual: approved technology by which all parties can see and hear the other parties simultaneously.

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

Remote presentation: 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 identify the individual seeking the online notary public's services and perform credential analysis.

Remotely located individual: an individual who is not within physical proximity to a notary public.

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

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

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

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

Notes

Mail Notary applications to:

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

Phone: (501) 682-3409

Toll Free: (888) 233-0325

www.sos.arkansas.gov



**Scan the QR code with
your smartphone app
for information on
Notaries and eNotaries
on the go!**

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