

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 807

By: Senator Hickey

For An Act To Be Entitled

AN ACT TO CLARIFY ARKANSAS LAW RELATED TO NOTARIES
PUBLIC; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY ARKANSAS LAW RELATED TO
NOTARIES PUBLIC.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 21-14-101 is amended to read as follows:
21-14-101. Appointment and commission.

(a)(1) The Secretary of State may appoint and commission an individual person as a notary public in this state.

(2) Effective January 1, 2006, a notary public may perform notarial acts in any part of the state for a term of ten (10) years, beginning on the date of commission or the date of renewal of a commission issued by the Secretary of State.

(b) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:

(1) That he or she is:

(A) Either a:

(i) Bona fide citizen of the United States; or

(ii) Permanent resident alien who shall file with

his or her application a recorded Declaration of Domicile;

(B) A legal resident of Arkansas or an adjoining state and employed in the State of Arkansas;



(C) Eighteen (18) years of age or older; and

(D) Able to read and write English;

(2) The address of his or her business or residence in this state; ~~and~~

(3) That during the past ten (10) years, his or her commission as a notary public has not been revoked; and

(4) That he or she has not been convicted of a felony.

(c) The application shall be sent to the Secretary of State with a fee of twenty dollars (\$20.00) for the notary public commission.

(d) The Secretary of State may require the applicant to demonstrate that he or she has reviewed the law concerning notaries public and understands the duties of a notary public.

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

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

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

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

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

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

~~(e)~~(f)(1) The obligation of an issuer of a bond required by subsection ~~(d)~~(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.

~~(f)~~(g)(1) Every notary public shall sign the following declaration in the presence of the circuit clerk for the county where the notary public resides or if a resident of another state, the circuit clerk for the county in Arkansas where employed:

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

(Signature of notary) _____

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

_____(Signature of circuit clerk)”

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

~~(g)~~(h) Effective January 1, 2006, the Secretary of State shall issue a commission number to each new notary public and to each notary public who renews his or her commission.

SECTION 2. Arkansas Code § 21-14-102(b), concerning the transfer of a notary public’s appointment and filing of bonds during change of residency, is amended to read as follows:

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

SECTION 3. Arkansas Code § 21-14-104 is amended to read as follows:
21-14-104. Power and authority generally.

The power and authority of a notary public shall be coextensive with

the state for:

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

SECTION 4. Arkansas Code § 21-14-107(a) and (b), concerning the official signatures of the notaries public, are amended to read as follows:

(a)(1) At the time of notarization, the notary public shall sign his or her official signature in blue or black ink on every notary certificate.

(2) The official signature shall be the signature on file with the Secretary of State at the time of signing.

(b)(1) Under or near a notary public's official signature on every notary certificate, the notary public shall provide a seal of his or her office in blue or black ink, which shall be either a rubber stamp seal or a seal embosser. The seal shall be clear and legible and capable of photographic reproduction.

(2) The seal shall include:

- (A) The notary public's name exactly as he or she writes his or her official signature;
- (B) The name of the county where the notary public's bond is filed;
- (C) The words "notary public" and "Arkansas";
- (D) The date upon which the notary public's commission expires; and
- (E) The notary public's commission number issued by the Secretary of State if the notary public has been issued a commission number.

SECTION 5. Arkansas Code § 21-14-112 is amended to read as follows:
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; ~~or~~

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

~~(6)~~(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 ~~five (5)~~ ten (10) years have elapsed from the date of the revocation.

SECTION 6. Arkansas Code § 21-14-202 is amended to read as follows:

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.

APPROVED: 03/22/2013