

Stricken language would be deleted from and underlined language would be added to present law.
Act 537 of the Regular Session

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S2/27/17
A Bill

HOUSE BILL 1450

By: Representative Drown
By: Senator Irvin

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 § 21-6-309 is amended to read as follows:
21-6-309. Notaries public.

(a) ~~Each notary public in this state may charge and collect the following fees:~~

~~(1) For protest and record of same \$ 5.00;~~

~~(2) For each notice of protest 5.00;~~

~~(3) For each certificate and seal 5.00; and~~

~~(4) For actual round trip mileage, calculated using the federal rate for mileage reimbursement, between the location of service by the notary public and the place of residence or business of the notary public, whichever distance is less~~ 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) ~~Any~~ A notary public who ~~shall knowingly charge, demand, or~~



~~receive charges, demands, or receives~~ any fees not provided by law, or who shall charge, demand, or receive any greater fees than are provided in this section shall be deemed charges, demands, or receives a fee amount that violates subsection (a) of this section, is guilty of a misdemeanor violation.

(2) Upon conviction, ~~he or she~~ the notary public shall be fined ~~in any sum not less than~~ no less than one hundred dollars (\$100) for each ~~and every~~ offense.

SECTION 2. Arkansas Code § 21-14-101(f), concerning the obligation of an issuer of a bond issued on behalf of a notary public, is amended to read as follows:

(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.

SECTION 3. Arkansas Code § 21-14-107 is amended to read as follows:
21-14-107. Signature – Seal.

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

(2) The official signature ~~shall be~~ 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)”; and

(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.

/s/Drown

APPROVED: 03/20/2017