

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(3) That during the past ten (10) years, his or her commission as a notary public has not been revoked.

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

History. Acts 1874, No. 17, § 1, p. 61; C. & M. Dig., § 7969; Pope's Dig., § 10362; Acts 1981, No. 672, § 1; 1985, No. 966, § 1; A.S.A. 1947, § 12-1401; Acts 1989, No. 304, § 2; 2001, No. 1274, § 1; 2005, No. 2274, § 1; 2009, No. 1404, § 1.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided:
“This act shall become effective on January 1, 2006.”

Amendments. The 2005 amendment added (e) and (f); rewrote (a)(2); and substituted “Secretary of State” for “clerk of the circuit court of the county” in (d)(1). The 2009 amendment inserted present (e) and redesignated the remaining subsections accordingly.

Case Notes

Liability of Notary.

Noncompliance.

Qualifications.

Liability of Notary.

A party who is damaged because of reliance upon truth of statement sworn to before notary is injured by the act of the party swearing falsely rather than by the negligence of the notary in certifying that the statement has been sworn. *Smith v. Maginnis*, 75 Ark. 472, 89 S.W. 91 (1905); *Coffin v. Bruten*, 78 Ark. 162, 95 S.W. 462 (1906).

Issue of fact remained as to whether a notary was liable for witnessing forged signatures pursuant to § 21-14-111, and therefore whether the surety was liable on its bond issued under this section, because, if she recognized the signature, she was permitted to witness it without watching the signer sign the documents. *Southern Dev. Corp. v. Freightliner of New Hampshire, Inc.*, 2009 Ark. App. 286, — S.W.3d — (2009).

Noncompliance.

Recorded mortgage properly acknowledged was enforceable even though notary who took the acknowledgment had not qualified himself as required by this section. *Forrest City Grocer Co. v. Catlin*, 193 Ark. 148, 97 S.W.2d 910 (1936).

Qualifications.

Notary's residence in county of his appointment is essential. *Lanier v. Norfleet*, 156 Ark. 216, 245 S.W. 498 (1922).

Cited: *Brown v. Anderson*, 210 Ark. 970, 198 S.W.2d 188 (1946).