

21-14-107. Signature — Seal.

(a) (1) At the time of notarization, the notary public shall sign his or her official signature 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, 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.

History. Rev. Stat., ch. 104, § 7; C. & M. Dig., § 7976; Pope's Dig., § 10369; Acts 1981, No. 672, § 2; A.S.A. 1947, § 12-1402; Acts 2001, No. 1274, § 4; 2005, No. 1962, § 104; 2005, No. 2274, § 2.

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

Amendments. The 2005 amendment by No. 2274 substituted "commission" for "notary" in (b)(2)(D); added (b)(2)(E); and made minor stylistic changes.

Cross References. Seals of public officers to contain emblem of state, § 1-4-108.

Case Notes

Noncompliance.

Noncompliance.

The absence from a notary's seal of the emblems and devices required by this section does not invalidate his certificate of the acknowledgment of a deed. *Sonfield v. Thompson*, 42 Ark. 46 (1883).

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.

History. Acts 1891, No. 35, §§ 1, 2, p. 57; C. & M. Dig., §§ 7971, 7972; Pope's Dig., §§ 10364, 10365; A.S.A. 1947, §§ 12-1406, 12-1407; Acts 2001, No. 1274, § 5; 2005, No. 2274, § 2.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided:

"This act shall become effective on January 1, 2006."

Amendments. The 2005 amendment substituted "Secretary of State" for "clerk of the circuit court of the county" in (d)(1).

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.

History. Acts 1953, No. 331, § 1; A.S.A. 1947, § 12-1411.

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.

History. Rev. Stat., ch. 104, § 8; C. & M. Dig., § 7977; Pope's Dig., § 10370; A.S.A. 1947, § 12-1409.

Research References

Ark. L. Rev.

Documentary Evidence — Arkansas, 15 Ark. L. Rev. 79.

Case Notes

Prima Facie Evidence.

Prima Facie Evidence.

The certificate of the notary that the holder of a note had mailed notice to the endorser is prima facie evidence of the facts stated. *Peters v. Hobbs*, 25 Ark. 67 (1867); *Fletcher v. Arkansas Nat'l Bank*, 62 Ark. 265, 35 S.W. 228 (1896).

21-14-111. Unlawful act — Penalty.

(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.

History. Acts 1989, No. 304, § 3; 2001, No. 1274, § 6.

Amendments. The 2001 amendment deleted (b)(2) and made related changes; and added (c).

Case Notes

Forged Signature.

Improper Notarization.

Forged Signature.

Where bank sought to take advantage of its own wrongful conduct in notarizing and accepting wife's signature as forged by her husband on a promissory note, its conduct was improper and unconscionable and barred by the clean hands doctrine. *Merchants & Planters Bank & Trust Co. v. Massey*, 302 Ark. 421, 790 S.W.2d 889 (1990).

Issue of fact remained as to whether a notary was liable for witnessing forged signatures pursuant to this section, and therefore whether the surety was liable on its bond issued under § 21-14-101, 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).

Improper Notarization.

Under this section and §§ 16-47-205 and 28-68-304(a)(3)(A), the decedent's attorney's secretary signed the certificate of acknowledgement for the November 20 power of attorney before the decedent signed the instrument, and this improper notarization of the acknowledgement was fatal to the validity of the November 20 power of attorney. *Jones v. Owen*, 2009 Ark. 505, — S.W.3d — (2009).

Cited: *Porter v. McCuen*, 310 Ark. 674, 839 S.W.2d 521 (1992).

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) 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) years have elapsed from the date of the revocation.

History. Acts 1999, No. 1187, § 1; 2005, No. 2274, § 3.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided:

"This act shall become effective on January 1, 2006."

Amendments. The 2005 amendment substituted "five (5) years" for "three (3) years" in (d); and made minor stylistic changes.

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.

History. Acts 1999, No. 1187, § 2.

21-14-114. Rules and regulations.

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

History. Acts 2005, No. 2274, § 4.

A.C.R.C. Notes. Acts 2005, No. 2274, § 5, provided:

"This act shall become effective on January 1, 2006."

Subchapter 2 — Facsimile Signatures and Seals.

21-14-201. Definitions.

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

21-14-203. Expiration and resignation.

21-14-204. Duties of notary public.

21-14-205. Force and effect.

Effective Dates. Acts 1995, No. 200, § 5: Feb. 9, 1995. Emergency clause provided: "Many commercial documents are required to include a notary certificate to comply with terms imposed by purchase orders, business contracts, construction standards, testing standards and other commercial practices. Where such documents are produced by computer and subscribed by an affiant in facsimile form, substantial time and expense is required for a notary public to manually sign, seal and affix notary certificates as required by present law, which increases operating costs, makes Arkansas business less competitive and costs Arkansas jobs. Arkansas law presently permits authorized officers to sign and seal public securities and instruments of payment by facsimile signature and seal under similar circumstances, following a filing with the secretary of state (Ark. Code Ann. § 21-10-101 et seq.), but has no similar provision for notaries public on commercial documents. Operating costs may be reduced and expensive business equipment may be more fully utilized by allowing notaries public to affix notary certificates bearing facsimile signatures and seals under appropriate circumstances. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1274, § 8: Apr. 4, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the notary public law needs to be updated and reformed immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

21-14-201. Definitions.

As used in this subchapter:

(1) "Facsimile signature" means the reproduction by engraving, imprinting, stamping, or other means of a manual signature of a notary public;

(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) (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.

History. Acts 1995, No. 200, § 1.

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 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.

History. Acts 1995, No. 200, § 1.

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.

History. Acts 1995, No. 200, § 1; 2001, No. 1274, § 7.

Amendments. The 2001 amendment added "and resignation" in the section heading; and added (a)(3) and (b) and made related changes.

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.

History. Acts 1995, No. 200, § 1.

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.

History. Acts 1995, No. 200, § 1.