

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).