

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/8/01

A Bill

HOUSE BILL 1930

5 By: Representative Ferguson
6 By: Senator T. Smith
7

For An Act To Be Entitled

10 AN ACT TO AMEND THE NOTARY PUBLIC LAWS; AND FOR
11 OTHER PURPOSES.

Subtitle

12 TO AMEND THE NOTARY PUBLIC LAWS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Arkansas Code 21-14-101 is amended to read as follows:

20 (a)(1) The Secretary of State may appoint and commission individual
21 persons as notaries public in this state.

22 (2) Notaries public may perform notarial acts in any part of the
23 state for a term of ten (10) years.

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

26 (1) That he or she is:

27 (A) A bona fide citizen of the United States; or

28 (B) A permanent resident alien who shall file with his or
29 her application a recorded Declaration of Domicile; and

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

32 ~~(2)(D) That he is eighteen~~ Eighteen (18) years of age or
33 older; and

34 ~~(3) That he is a legal resident of the State of Arkansas or a~~
35 ~~legal resident of an adjoining state and employed in the State of Arkansas;~~

36 ~~(4)(E) That he is able~~ Able to read and write English;

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1 ~~(5)~~(2) The address of his or her business or residence in this
2 state;

3 ~~(6)~~(3) That during the past ten (10) years, his or her commission
4 as a notary public has not been revoked.

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

7 (d) Notaries public shall file in the office of the recorder of deeds
8 for the county in which the notary public resides, or, in the case of a
9 resident of an adjoining state, in the county in Arkansas in which employed,
10 either:

11 (1) A surety bond executed by a surety insurer authorized to do
12 business in Arkansas to the state for the faithful discharge of their duties,
13 in the sum of ~~four thousand dollars (\$4000)~~ sum of seven thousand five hundred
14 dollars (\$7,500), to be approved by the clerk of the circuit court of the
15 county; or

16 (2) A surety contract guaranteeing the notaries' faithful
17 discharge of their duties executed to the State of Arkansas for not more than
18 an aggregate ~~four thousand dollars (\$4000)~~ seven thousand five hundred dollars
19 (7,500), issued by a general business corporation, validly organized and
20 formed under the laws of this state pertaining to domestic corporations, and
21 which:

22 (A) Has previously registered with the Insurance
23 Commissioner on forms prescribed by him evidencing its purpose to issue only
24 surety contracts for notaries public pursuant to the provisions of this
25 section; and

26 (B) Has previously deposited and thereafter maintains with
27 the Insurance Commissioner securities in the sum of not less than ten thousand
28 dollars (\$10,000) executed to the State of Arkansas which are issued by a
29 nonaffiliated corporate entity and are approved by the Insurance Commissioner;
30 and

31 (C) Is not otherwise transacting any insurance business in
32 this state which requires compliance with the provisions of the Arkansas
33 Insurance Code, § 23-60-101 et seq.

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35 SECTION 2. Arkansas Code 21-14-103 is amended to read as follows:
36 21-14-103. ~~Death, resignation, or removal~~ Change in personal

1 information.

2 ~~If any notary public dies, resigns, removes from the county, or is~~
3 ~~removed from office, his record book and all his public papers shall be~~
4 ~~delivered to the clerk of the county court, to be delivered to his successor.~~

5 (a)(1) If any notary public has a change in his or her status in life
6 which alters the information on record with the Secretary of State, he or she
7 shall be responsible for providing that change of information to the Secretary
8 of State within thirty (30) calendar days of the change.

9 (2) If the change in status involves a court order, the notary
10 public shall be responsible for providing the Secretary of State with a
11 certified copy of the order within thirty (30) calendar days of the filing of
12 the order with the clerk.

13 (3) If the notary public marries, a certified copy of the
14 marriage certificate shall be delivered to the Secretary of State's Office.

15 (b) Immediately upon receipt of any change in a notary public's
16 information, the Secretary of State shall send a copy to the office of the
17 recorder of deeds for the county in which the notary public resides, or in the
18 case of a resident of an adjoining state, in the county in Arkansas in which
19 he or she is employed.

20

21 SECTION 3. Arkansas Code 21-14-106 is amended to read as follows:

22 21-14-106. Acknowledgments and authentications.

23 (a) A notary public may:

24 (1) Take the proof or the acknowledgment of all instruments of
25 writing relating to commerce and navigation;

26 (2) Receive and authenticate acknowledgments of deeds, letters of
27 attorney, and other instruments of writing;

28 (3) Make declarations and protests; and

29 (4) Certify under his official seal the truth of all matters and
30 things done by virtue of his office.

31 (b) A notary public may supervise the making of a photocopy of an
32 original document and attest that the document is a copy, if the document is
33 neither:

34 (1) A vital record in this state, another state, a territory of
35 the United States, or another country; or

36 (2) A public record, if a copy can be made by the custodian of

1 the public record.

2

3 SECTION 4. Arkansas Code 21-14-107 is amended to read as follows:

4 21-14-107. Signature - Seal.

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

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

9 (b)(1) Under or near his or her official signature on every notary
10 certificate, a notary public shall provide a seal of his or her office, which
11 shall be either a rubber stamp seal or a seal embosser. The seal shall be
12 clear and legible, capable of photographic reproduction.

13 (2) The seal should include:

14 (A) His or her name exactly as he or she writes his or her
15 official signature;

16 (B) The name of the county where his or her bond is filed;
17 ~~and~~

18 (C) The words "notary public" and "Arkansas"; and

19 (D) The date upon which his or her notary expires.

20 (c) A notary seal shall not include the Seal of the State of Arkansas
21 or an outline of the state.

22 (d) The seal and certificate of the notary public commission are the
23 exclusive property of the notary public and must be kept in the exclusive
24 control of the notary public.

25 (e) The seal and certificate of commission shall not be surrendered to
26 an employer upon termination of employment, regardless of whether or not the
27 employer paid for the seal or for the commission.

28

29 SECTION 5. Arkansas Code 21-14-108 is amended to read as follows:

30 21-14-108. Expiration date of commission.

31 (a)(1) All notaries public shall attach to any certificate of
32 acknowledgment or jurat to an affidavit that he or she may make a statement of
33 the date on which his or her commission will expire.

34 (2) No acknowledgment or other act of a notary shall be held
35 invalid on account of the failure to comply with this section.

36 ~~(b) If any notary public shall fail to attach the statement to any~~

~~certificate of acknowledgment or other official act, he shall be guilty of a misdemeanor and be punished by a fine not to exceed five dollars (\$5.00).~~

(b) No notary public shall perform any official act after the expiration of his or her commission as evidenced by his or her certificate.

(c) Thirty (30) calendar days prior to the expiration of a notary public's commission, he or she shall submit to the Secretary of State a new application along with the twenty dollar (\$20) fee for the renewal of the commission.

(d) Notaries public shall file in the office of the recorder of deeds for the county in which the notary public resides, or if the person is a resident of an adjoining state, in the county in Arkansas in which employed, either:

(1) A surety bond executed by a surety insurer authorized to do business in Arkansas for the faithful discharge of their duties, in the sum of seven thousand five hundred dollars (\$7,500), to be approved by the clerk of the circuit court of the county; or

(2) A surety contract guaranteeing the notaries' faithful discharge of their 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 Insurance Commissioner evidencing its purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;

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

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

SECTION 6. Arkansas Code 21-14-111 is amended to read as follows:

21-14-111. Unlawful act - Penalty.

1 (a) It is unlawful for any notary public to witness any signature on
2 any instrument unless the notary either:

3 (1) Witnesses the signing of the instrument and personally knows
4 the signer or is presented proof of the identity of the signer; or

5 (2) Recognizes the signature of the signer by virtue of
6 familiarity with the signature.

7 (b)~~(1)~~ Any notary public violating this section shall be guilty of a
8 Class A misdemeanor.

9 ~~(2) In addition, the commission of any notary public convicted of~~
10 ~~a violation of this section shall be revoked and the person shall be~~
11 ~~ineligible to be recommissioned as a notary public.~~

12 (c) For purposes of this section, "personally knows" means having an
13 acquaintance, derived from association with the individual, which establishes
14 the individual's identity with at least a reasonable certainty.

15
16 SECTION 7. Arkansas Code 21-14-203 is amended to read as follows:

17 21-14-203. Expiration and resignation.

18 (a) Any filing by a notary public with the Secretary of State under the
19 terms of this subchapter shall remain in effect until the earlier of:

20 (1) The date on which the notary public's commission in effect on
21 the date of filing expires; ~~or~~

22 (2) The filing is cancelled by the notary public by subsequent
23 written filing with the Secretary of State; or

24 (3) The filing is cancelled pursuant to § 21-14-113.

25 (b)(1) A notary public who wishes to resign his or her commission, or a
26 notary public who does not maintain legal residence or employment in this
27 state during the entire term of appointment, or a notary public whose
28 resignation is required pursuant to a court order of this state or any other
29 state, shall send a signed letter of resignation to the Secretary of State and
30 shall return his or her certificate of notary public commission.

31 (2) The resigning notary public shall destroy his or her official
32 seal immediately upon resignation.

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34 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General
35 Assembly that the notary public law needs to be updated and reformed
36 immediately. Therefore, an emergency is declared to exist and this act being

1 immediately necessary for the preservation of the public peace, health and
2 safety shall become effective on the date of its approval by the Governor. If
3 the bill is neither approved nor vetoed by the Governor, it shall become
4 effective on the expiration of the period of time during which the Governor
5 may veto the bill. If the bill is vetoed by the Governor and the veto is
6 overridden, it shall become effective on the date the last house overrides the
7 veto.

8 */s/ Ferguson*

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