

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 85th General Assembly  
3 Regular Session, 2005

# A Bill

SENATE BILL 337

4  
5 By: Senator Faris  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO AMEND VARIOUS LAWS PERTAINING TO  
10 NOTARIES PUBLIC; AND FOR OTHER PURPOSES.  
11

### Subtitle

12  
13 TO AMEND VARIOUS LAWS PERTAINING TO  
14 NOTARIES PUBLIC.  
15  
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code §§ 21-14-101 - 21-14-103 are amended to read  
20 as follows:

21 21-14-101. Appointment and commission.

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

24 (2) Effective January 1, 2006, notaries ~~Notaries~~ public may  
25 perform notarial acts in any part of the state for a term of ~~ten (10)~~ five  
26 (5) years, beginning on the date of commission or the date of renewal of a  
27 commission issued by the Secretary of State.

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

31 (1) That he or she is:

32 (A) Either a:

33 (i) Bona fide citizen of the United States; or

34 (ii) Permanent resident alien who shall file with

35 his or her application a recorded Declaration of Domicile;

36 (B) A legal resident of Arkansas or an adjoining state and



1 employed in the State of Arkansas;

2 (C) Eighteen (18) years of age or older; and

3 (D) Able to read and write English;

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

6 (3) That during the past ~~ten (10)~~ five (5) years, his or her  
7 commission as a notary public has not been revoked.

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

10 (d) Every notary public shall file in the office of the recorder of  
11 deeds for the county in which the notary public resides or, in the case of a  
12 resident of an adjoining state, in the county in Arkansas in which employed,  
13 either:

14 (1) A surety bond executed by a surety insurer authorized to do  
15 business in Arkansas to the state for the faithful discharge of the notary  
16 public's duties, in the sum of seven thousand five hundred dollars (\$7,500),  
17 to be approved by the ~~clerk of the circuit court of the county~~ Secretary of  
18 State; or

19 (2) A surety contract guaranteeing the notary public's faithful  
20 discharge of his or her duties executed to the State of Arkansas for not more  
21 than an aggregate seven thousand five hundred dollars (\$7,500), issued by a  
22 general business corporation, validly organized and formed under the laws of  
23 this state pertaining to domestic corporations, and which:

24 (A) Has previously registered with the Insurance  
25 Commissioner on forms prescribed by the commissioner evidencing the  
26 corporation's purpose to issue only surety contracts for notaries public  
27 pursuant to the provisions of this section;

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

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

35 (e)(1) Every notary public shall sign the following declaration in the  
36 presence of the circuit clerk for the county where the notary public resides

1 or, if a resident of another state, in the county in Arkansas where employed:  
2 "I, (name of notary), solemnly swear or affirm that I have carefully read the  
3 notary laws of this state, and I will uphold the Constitutions of the United  
4 States and the State of Arkansas and will faithfully perform to the best of  
5 my ability all notarial acts in accordance with the law.

6 (Signature of notary)

7 Subscribed and sworn to before me (name of circuit clerk), Circuit Clerk for  
8 the County of (name of county), State of Arkansas, on this \_\_\_\_\_ day of  
9 \_\_\_\_\_, (year).

10 (Signature of circuit clerk)"

11 (2) The notary public shall send an executed and signed original  
12 of the declaration to the Secretary of State.

13 (f)(1) Each applicant for appointment and commission as a notary  
14 public shall complete an instruction course or pass a written examination  
15 approved by the Secretary of State.

16 (2) The content of the instruction course and written  
17 examination shall include notarial laws, procedures, and ethics.

18 (g) Effective January 1, 2006, the Secretary of State shall issue a  
19 commission number to each new notary public and to each notary public who  
20 renews his or her commission.

21  
22 21-14-102. Change of residence.

23 (a)(1) Upon receiving notification of a change of residency, the  
24 Secretary of State shall transfer a notary public's appointment and  
25 commission to the new county of residence in instances where a person  
26 appointed and commissioned a notary public under § 21-14-101 changes  
27 residence to a county within this state other than the county wherein the  
28 notary resided on the date of commission.

29 (2) Upon receiving notification of a change in place of  
30 employment, the Secretary of State shall transfer a notary public's  
31 appointment and commission to the new county of employment in the case of a  
32 resident of an adjoining state changing his or her place of employment to a  
33 county within this state other than the county wherein the notary was  
34 employed on the date of commission.

35 (b) The original bond shall also be filed by the notary public in the  
36 new county of residence or if the notary is a resident of an adjoining state,

1 in the new county of employment in Arkansas.

2  
 3 21-14-103. Change in personal information.

4 (a)~~(1)~~ If any notary public has a change in his or her mailing address  
 5 or status in life which alters the information on record with the Secretary  
 6 of State and the circuit clerk for the county where the notary public resides  
 7 or if the notary is a resident of an adjoining state, in the county in  
 8 Arkansas where he or she is employed, he or she shall be responsible for  
 9 providing that change of information to the Secretary of State and the  
 10 circuit clerk within thirty (30) calendar days of the change.

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

15 ~~(3)(c)~~ If the notary public marries and the notary public's name  
 16 changes, a certified copy of the marriage certificate shall be delivered to  
 17 the office of the Secretary of State and the circuit clerk for the county  
 18 where the notary public resides or if the notary is a resident of an  
 19 adjoining state, in the county in Arkansas where he or she is employed.

20 ~~(b) Immediately upon receipt of any change in a notary public's~~  
 21 ~~information, the Secretary of State shall send a copy to the office of the~~  
 22 ~~recorder of deeds for the county in which the notary public resides or, in~~  
 23 ~~the case of a resident of an adjoining state, in the county in Arkansas in~~  
 24 ~~which he or she is employed.~~

25  
 26 SECTION 2. Arkansas Code §§ 21-14-106 - 21-14-108 are amended to read  
 27 as follows:

28 21-14-106. Acknowledgments and authentications.

29 (a) A notary public may:

- 30 (1) Take the proof or the acknowledgment of all instruments of
- 31 writing relating to commerce and navigation;
- 32 (2) Receive and authenticate acknowledgments of deeds, letters
- 33 of attorney, and other instruments of writing;
- 34 (3) Make declarations and protests; and
- 35 (4) Certify under his or her official seal the truth of all
- 36 matters and things done by virtue of his or her office.

1 (b) A notary public may supervise the making of a photocopy of an  
 2 original document and attest that the document is a copy if the document is  
 3 neither:

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

6 (2) A public record if a copy can be made by the custodian of  
 7 the public record.

8 (c) A notary public shall record in a journal all notarial acts  
 9 performed.

10  
 11 21-14-107. Signature - Seal.

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

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

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

20 (2) The seal should include:

21 (A) The notary public's name exactly as he or she writes  
 22 his or her official signature;

23 (B) The name of the county where the notary public's bond  
 24 is filed;

25 (C) The words "notary public" and "Arkansas"; ~~and~~

26 (D) The date upon which the notary public's ~~notary~~  
 27 commission expires; and

28 (E) The notary public's commission number issued by the  
 29 Secretary of State if the notary public has been issued a commission number.

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

32 (d) The seal, journal, and certificate of the notary public commission  
 33 are the exclusive property of the notary public and must be kept in the  
 34 exclusive control of the notary public.

35 (e) The seal, journal, and certificate of commission shall not be  
 36 surrendered to an employer upon termination of employment, regardless of

1 whether or not the employer paid for the seal or for the commission.

2  
3 21-14-108. Expiration date of commission.

4 (a)(1) Every notary public shall attach to any certificate of  
5 acknowledgment or jurat to an affidavit that he or she may make a statement  
6 of the date on which his or her commission will expire.

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

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

11 (c) Thirty (30) calendar days prior to the expiration of a notary  
12 public's commission, he or she shall submit to the Secretary of State a new  
13 application along with the twenty-dollar (\$20.00) fee for the renewal of the  
14 commission.

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

19 (1) A surety bond executed by a surety insurer authorized to do  
20 business in Arkansas for the faithful discharge of the notary public's  
21 duties, in the sum of seven thousand five hundred dollars (\$7,500), to be  
22 approved by the ~~clerk of the circuit court of the county~~ Secretary of State;  
23 or

24 (2) A surety contract guaranteeing the notary public's faithful  
25 discharge of his or her duties executed to the State of Arkansas for not more  
26 than an aggregate seven thousand five hundred dollars (\$7,500), issued by a  
27 general business corporation, validly organized and formed under the laws of  
28 this state pertaining to domestic corporations, and which:

29 (A) Has previously registered with the Insurance  
30 Commissioner on forms prescribed by the commissioner evidencing the  
31 corporation's purpose to issue only surety contracts for notaries public  
32 pursuant to the provisions of this section;

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

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

4  
 5 SECTION 3. Arkansas Code §§ 21-14-111 and 21-14-112 are amended to  
 6 read as follows:

7 21-14-111. Unlawful act - Penalty.

8 (a) It is unlawful for any notary public to witness any signature on  
 9 any instrument unless the notary public ~~either~~

10 ~~(1) Witnesses~~ witnesses the signing of the instrument and  
 11 personally knows the signer or is presented proof of the identity of the  
 12 signer; ~~or~~

13 ~~(2) Recognizes the signature of the signer by virtue of~~  
 14 ~~familiarity with the signature.~~

15 (b) Any notary public violating this section shall be guilty upon  
 16 conviction of a Class A misdemeanor.

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

20  
 21 21-14-112. Denial or revocation of notary public commission.

22 (a) The Secretary of State may deny the application of any person for  
 23 appointment or reappointment or revoke the commission of any notary public  
 24 during such notary public's term of appointment if the notary public:

25 (1) Submits an application for commission and appointment that  
 26 contains substantial and material misstatement or omission of fact;

27 (2) Is convicted of official misconduct under the provisions of  
 28 § 21-14-111;

29 (3) Knowingly uses false or misleading advertising in which the  
 30 notary public represents that the notary public has powers, duties, rights,  
 31 or privileges that the notary public does not possess by law;

32 (4) Is found by a court of this state to have engaged in the  
 33 unauthorized practice of law; ~~or~~

34 (5) Is found by a court to have improperly notarized documents  
 35 according to the law; or

36 (6) Fails to complete the requirements under § 21-14-101.

1 (b) The Secretary of State may investigate possible violations of this  
2 section upon a signed complaint from any person.

3 (c) After a notary public receives notice from the Secretary of State  
4 that the notary public's commission has been revoked, unless such revocation  
5 has been enjoined the notary public shall immediately send or have delivered  
6 to the Secretary of State the notary public's journal of notarial acts, all  
7 other papers and copies relating to the notary public's notarial acts, and  
8 the notary public's official seal.

9 (d) A person whose notary public commission has been revoked pursuant  
10 to the provisions of this section may subsequently apply for commission and  
11 appointment as a notary public after ~~three (3)~~ five (5) years have elapsed  
12 from the date of such revocation.

13  
14 SECTION 4. Arkansas Code Title 21, Chapter 14, Subchapter 1 is amended  
15 to add an additional section to read as follows:

16 21-14-114. Rules and regulations.

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

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20 SECTION 5. This act shall become effective on January 1, 2006.  
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