

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1450

5 By: Representative Drown
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY ARKANSAS LAW RELATED TO NOTARIES
9 PUBLIC; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO CLARIFY ARKANSAS LAW RELATED TO
12 NOTARIES PUBLIC.
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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 § 21-6-309 is amended to read as follows:
20 21-6-309. Notaries public.

21 (a) ~~Each notary public in this state may charge and collect the~~
22 ~~following fees:~~

23 (1) ~~For protest and record of same \$ 5.00;~~

24 (2) ~~For each notice of protest 5.00;~~

25 (3) ~~For each certificate and seal 5.00; and~~

26 (4) ~~For actual round trip mileage, calculated using the federal~~
27 ~~rate for mileage reimbursement, between the location of service by the notary~~
28 ~~public and the place of residence or business of the notary public, whichever~~
29 ~~distance is less~~ A notary public authorized to perform notarial acts in this
30 state may charge and collect a fee for a notarial act if the fee:

31 (1) Is a reasonable amount as determined by the notary
32 public; and

33 (2) The fee is disclosed to and agreed upon by the client
34 or principal before executing the notarial act.

35 (b)(1) ~~Any~~ A notary public who ~~shall~~ knowingly ~~charge, demand, or~~
36 ~~receive~~ charges, demands, or receives any fees not provided by law, or who



1 ~~shall charge, demand, or receive any greater fees than are provided in this~~
 2 ~~section shall be deemed~~ charges, demands, or receives a fee amount that
 3 violates subsection (a) of this section, is guilty of a misdemeanor
 4 violation.

5 (2) Upon conviction, ~~he or she~~ the notary public shall be fined
 6 ~~in any sum not less than~~ no less than one hundred dollars (\$100) for each ~~and~~
 7 ~~every~~ offense.

8
 9 SECTION 2. Arkansas Code § 21-14-101(f), concerning the obligation of
 10 an issuer of a bond issued on behalf of a notary public, is amended to read
 11 as follows:

12 (f)(1) The obligation of an issuer of a bond required by subsection
 13 (e) of this section:

14 (A) Shall be solely to the State of Arkansas; and

15 (B) Is solely for the benefit of the State of Arkansas.

16 (2) Under no circumstances shall the aggregate liability of the
 17 issuer exceed the amount of the bond.

18 (3) An employer shall not cancel a surety bond of a current or
 19 former employee even if the employer paid for the surety bond on behalf of
 20 the employee.

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

23 21-14-107. Signature – Seal.

24 (a)(1) ~~At~~ Except as provided in subdivision (a)(3) of this section, at
 25 the time of notarization, the notary public shall sign his or her official
 26 signature in blue or black ink on every notary certificate.

27 (2) The official signature ~~shall be~~ is the signature on file
 28 with the Secretary of State at the time of signing.

29 (3) A notary public may refuse to perform a notarial act if, at
 30 the time of notarization, the notary public determines that the principal:

31 (A) Does not appear to understand the nature of the
 32 transaction that requires the notarial act;

33 (B) Does not appear to be acting of his or her own free
 34 will;

35 (C) Lacks the ability to sign a notarial document using
 36 letters or characters of a language that is understood by the notary public;

1 or

2 (D) Is not able to communicate directly with the notary
 3 public in a language understood by the principal and the notary public.

4 (4)(A) A signature by mark on a notarial document is legal for
 5 the purposes of executing the notarial document if the mark is:

6 (i) Made by a person who at the time of signature
 7 lacks the ability to write or sign his or her name; and

8 (ii) Witnessed by at least one (1) disinterested
 9 person.

10 (B) The notary public shall write below a signature by
 11 mark:

12 “Mark affixed by (Name of signer by mark) in the presence of (name(s) of
 13 witnesses)”.

14 (5) When a principal is physically unable to sign or make a mark
 15 on a notarial document, a disinterested third party may sign the name of the
 16 principal if:

17 (A) The principal directs the disinterested third party to
 18 sign the name of the principal in the presence of two (2) disinterested
 19 witnesses;

20 (B) The disinterested third party signs the name of the
 21 principal in the presence of the notary public, the principal, and the
 22 disinterested witnesses;

23 (C) Each disinterested witness signs his or her own name
 24 beside the signature;

25 (D) The notary public writes below the signature:
 26 “Signature affixed by (name of third party) at the direction and in the
 27 presence of (name of principal unable to sign or make a mark) and also in the
 28 presence of (names of two witnesses)”; and

29 (E) The notary public notarizes the required notarial
 30 certificate.

31 (b)(1) Under or near a notary public’s official signature on every
 32 notary certificate, the notary public shall provide a seal of his or her
 33 office in blue or black ink, which shall be either a rubber stamp seal or a
 34 seal embosser. The seal shall be clear and legible and capable of
 35 photographic reproduction.

36 (2) The seal shall include:

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

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

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

6 (D) The date upon which the notary public's commission
 7 expires; and

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

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

12 (d) The seal and certificate of the notary public commission are the
 13 exclusive property of the notary public and must be kept in the exclusive
 14 control of the notary public.

15 (e) The seal and certificate of the notary public commission shall not
 16 be surrendered to an employer upon termination of employment, regardless of
 17 whether or not the employer paid for the seal or for the commission.

18 (f)(1)(A) For a notarial act involving a document, a notary public
 19 shall complete a notarial certificate that is worded in English.

20 (B) The notarial certificate shall include:

21 (i) The official signature of the notary public as
 22 described in subdivision (a)(1) of this section;

23 (ii) The official seal of the notary as described in
 24 subdivision (b)(1) of this section;

25 (iii) The venue of the notarial act, including the
 26 name of the state and county; and

27 (iv) The date of the notarial act.

28 (2) A notarial certificate is incomplete if:

29 (A) The information within the notarial certificate is
 30 known or believed by the notary public to be false;

31 (B) A notary public affixes an official signature or seal
 32 on a notarial certificate that is incomplete under subsection (a) or
 33 subsection (b) of this section;

34 (C) An official signature or seal on a notarial
 35 certificate is known to be executed at a time when the principal or signer
 36 was not present; or

1 (D) A signed or sealed notarial certificate is executed
2 with the understanding that the notarial certificate will be completed or
3 attached to a document outside of the presence of the notary public.
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