

Notaries Public: The Handbook



The Alabama Secretary of State's Handbook for

Notaries Public

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Legal Disclaimer: The statutes are accurate as of January 5, 2022. Please be advised that the statutes may be subject to change in accordance with future Alabama legislative sessions.

INTRODUCTION

Notaries in the State of Alabama are appointed and commissioned by the probate judges of the various counties. In accordance with AL Code Section 36-20-70, the probate judge reports to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary appointed and commissioned under applicable law.

To become a notary, individuals must meet all of their state's qualifications, submit an application, and purchase a \$25,000 bond. The application fee varies from county to county. For information on becoming a notary public, please contact the probate judge in your county.

This handbook is intended as a reference guide. Please note that the Secretary of State does not appoint or commission notaries public, whereas the Judge of Probate is responsible for commissioning notaries public. However, the records filed with this office regarding the appointment and commissioning of notaries are a matter of public record and are available for review by the general public at the Secretary of State's website, www.sos.alabama.gov.

For more information on any Alabama Attorney General's opinions concerning notary law, please visit the Opinions Search page of the Attorney General's website, www.ago.alabama.gov.

WHAT IS A NOTARY PUBLIC?

A Notary Public is a public position that performs notarizations to deter fraudulent acts on notarial documents. They are appointed by the state and serve as an impartial witness to notarial documents.

Notaries are publicly commissioned as "ministerial" officials, meaning that they are expected to follow written rules without the exercise of significant personal discretion, as would otherwise be the case with a "judicial" official.¹

¹ <https://www.nationalnotary.org/knowledge-center/about-notaries>

A NOTARY'S DUTY

A Notary's duty is to make sure the signers are aware of the contents of the documents they are signing, that the signer's documents are for their true identity, and that they signed willingly without intimidation or coercion. Some examples of notarization documents consist of property deeds, prenuptial agreements, wills, and powers of attorney.

Notaries are dutifully bound to not act in their personal interest. The public trusts that the notary will be impartial and not refuse anyone based on nationality, sexual orientation, race, religion, or politics. The foundation of the Notary is impartiality.²

NOTARIES PUBLIC

Appointment and Commissioning

- (a) A competent number of notaries public for the state at large shall be appointed and commissioned by the judges of probate of the several counties of the state and shall hold office for four years from the date of their commission. Notaries public shall perform all the acts and exercise all authority under the general laws of the State of Alabama. The jurisdiction of the notaries public shall not be limited to the counties of their residence and shall extend to any county of the state. The judges of probate shall collect a fee of ten dollars (\$10) for each notary commission issued. The judges of probate shall also report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned under this subsection.
- (b) All existing notaries public functioning on January 1, 2012, shall continue to function pursuant to their existing authority for the remainder of their existing commission. §36-20-70, Code of Ala. 1975.

Bond

The surety bond is a three-party agreement that guarantees the principal will act in accordance with certain laws and protects the State of Alabama.

- (a) Notaries public shall give bond with sureties, to be approved by the judge of probate of the county of their residence, in the sum of twenty-five thousand dollars (\$25,000), payable to the State of Alabama, and conditioned to faithfully

² <https://www.nationalnotary.org/knowledge-center/about-notaries>

discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond shall be executed, approved, filed, and recorded in the office of the judge of probate of the county of their residence, before they enter on the duties of such office.

- (b) A notary public is an official appointed position. As with most public officials, the State requires the individual to purchase a surety or notary bond prior to receiving their appointment. This bond “makes sure” that if the official violates the public trust through negligence of their duties; funds are available to reimburse the State for its loss. The primary responsibility of a notary public is to validate that the individual parties to a contract are who they claim to be. The State may suffer a loss if the notary fails to properly confirm the identity of the parties. §36-20-71, Code of Ala. 1975.

Notarial Seal

For the authentication of his or her official acts, each notary shall provide a seal of office, which shall present, by its impression or stamp, the name, office, and the state for which he or she was appointed. §36-20-72, Code of Ala. 1975

Powers and Authorities of Notaries Public

According to Section 36-20-73, Code of Alabama (1975), a Notary Public may do all of the following:

- (1) Administer oaths in all matters incident to the exercise of their office.
- (2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office.
- (3) Demand acceptance and payment of bills of exchange, promissory notes, and all other writings which are governed by the commercial law as to days of grace, demand, and notice of nonpayment and protest the same for no acceptance or nonpayment and to give notice thereof as required by law.
- (4) Exercise such other powers, according to commercial usage or the laws of this state, as may belong to notaries public.

Fees

Notaries public are entitled to the sum of five dollar (\$5) for carrying out any of the enumerated powers, according to Section 36-20-74, Code of Alabama, 1975.

Violations

Any person who, having been a notary, willfully performs or assumes the authority to perform a notarial act after his or her commission expires, with knowledge that his or her commission has expired, or any person who without a notary’s commission assumes the authority and performs a notarial act shall be guilty of a Class C misdemeanor. §36-20-75, Code of Ala. 1975.

FORMS OF ACKNOWLEDGEMENT AND NOTARIAL ACTS

Acknowledgments

An acknowledgment is typically performed on documents controlling or conveying ownership of valuable assets. Such documents include real property deeds, powers of attorney and trusts. For an acknowledgment, the signer must appear in person at the time of notarization to be positively identified and to declare (“acknowledge”) that the signature on the document is his or her own, that it was willingly made and that the provisions in the document are intended to take effect exactly as written.³

According to Section 35-4-29, Code of Alabama (1975),
The following are substantially the forms of acknowledgment to be used in the State of Alabama, on conveyances and instruments of every description admitted to record:

ACKNOWLEDGMENT FOR INDIVIDUAL

The State of Alabama
_____ County }

I, _____, a Notary Public, hereby certify that _____ whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand this _____ day of _____, A. D. 20__.

(Style of Officer)

ACKNOWLEDGMENT FOR CORPORATION

The State of Alabama
_____ County }

³ <https://www.nationalnotary.org/knowledge-center/about-notaries>

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____ whose name as _____ of the _____, a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation. Given under my hand this the _____ day of _____, 20__

(Style of Officer)

ACKNOWLEDGMENT FOR AN OFFICIAL OR OTHER PERSON IN REPRESENTATIVE CAPACITY

The State of Alabama
_____County }

I, _____, a Notary Public, in and for said County in said State, hereby certify that _____, whose name as _____ (here state representative capacity) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, in his capacity as such _____, executed the same voluntarily on the day the same bears date. Given under my hand this the _____ day of _____, 20__

(Style of Officer)

ACKNOWLEDGMENT FOR CORPORATION, IN REPRESENTATIVE CAPACITY

The State of Alabama
_____County }

I, _____, a Notary Public, in and for said County, in said State, hereby certify that _____ whose name as _____ of _____, a corporation as _____ of the estate of _____ (or as the case may be) is signed to the foregoing _____, and who is known to me, acknowledged before me on this day, that being informed of the contents of said _____, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as _____ as aforesaid.

Given under my hand this the _____ day of _____, 20__

(Style of Officer)

Jurats

A jurat is typically performed on evidentiary documents that are critical to the operation of our civil and criminal justice system. Such documents include affidavits, depositions and interrogatories. For a jurat, the signer must appear in person at the time of notarization to sign the document and to speak aloud an oath or affirmation promising that the statements in the document are true. (An oath is a solemn pledge to a Supreme Being; an affirmation is an equally solemn pledge on one’s personal honor.) A person who takes an oath or affirmation in connection with an official proceeding may be prosecuted for perjury should he or she fail to be truthful. ⁴

Jurat:

State of Alabama

County of _____

Sworn to and subscribed before me on the _____ day of _____, 20____, by _____ (name of principal signer).⁵

(Seal)

Notary Public

Certified Copies

A copy certification is performed to confirm that a reproduction of an original document is true, exact and complete. Such originals might include college degrees, passports and other important one-and-only personal papers which cannot be copy-certified by a public record office such as a bureau of vital statistics and which the holder must submit for some purpose but does not want to part with for fear of loss. This type of notarization is not an authorized notarial act in every state, and in the jurisdictions where it is authorized, may be executed only with certain kinds of original document.⁶

Copy Certification of Notary Register:

State of Alabama

County of _____

I, _____ a notary public, do certify that, on the _____ day of _____, 20____, I personally made the above/attached copy of

⁴ <https://www.nationalnotary.org/knowledge-center/about-notaries>

⁵ <https://www.notarypublicstamps.com/forms/AL%20Notarial%20Certificates.pdf>

⁶ <https://www.nationalnotary.org/knowledge-center/about-notaries>

_____ from the original, and it is a true, exact, complete, and unaltered copy.⁷

(Seal)

Notary Public ⁸

QUESTIONS AND ANSWERS

1. **What is a Notary Public?**

A Notary Public is a public officer used as an impartial witness to the signing of important documents. They are appointed by the county probate judge.

2. **Do Civil Law Notaries and Notary Publics share the same powers?**

The powers of civil law notaries include, but are not limited to, all of the powers of a notary public under the laws of this state.

3. **How does one become a notary?**

A notary public will apply at the office of the probate judge in their county of residence. Applications are available on many of the county websites.

4. **Do I have to be a citizen to become a notary?**

The United States Supreme Court, in the case of Bernal v Fainter, decided in 1984 that a notary applicant does not have to be a U.S. citizen. However, the resident alien notary applicant must be in the country legally.

5. **Do I have to be a registered voter to become a notary?**

You do not have to be a registered voter in order to apply for a commission as a notary public.

6. **I've been convicted as a felon. Can I serve as a Notary Public?**

A person who has been convicted of a felony cannot serve as a notary public, unless such conviction was prior to holding office and he or she has received a pardon specifically restoring his or her civil and political rights.

7. **Where do I go to receive training to be a Notary Public?**

Visit the Secretary of State's website under the Services and Administrative Services tabs to find training websites and other helpful information.

8. **Will I be assigned a commission number?**

Alabama notaries are not assigned commission or identification numbers.

⁷ <https://www.notarypublicstamps.com/forms/AL%20Notarial%20Certificates.pdf>

⁸ <https://www.notarypublicstamps.com/forms/AL%20Notarial%20Certificates.pdf>

9. **Do I have to maintain a journal as a Notary Public?**
As of 2011, a notary public is no longer required to maintain a journal. However, it would be prudent to maintain a journal.
10. **Do I need a notary seal as a Notary Public?**
The notarial document **MUST** have a seal or stamp. This is a requirement in the state statute because it helps prevent fraudulent acts, and it makes the notary public an impartial witness.
11. **What kind of seal do I need as a notary?**
The notary public will need an official seal: either an ink stamp or metal embosser. An embossed seal is not a requirement.
12. **What do I do if my seal is stolen or lost?**
If your seal or stamp is stolen, report the loss to the office of the probate judge, and provide them with a written statement regarding the loss.
13. **Is a Notary Public required to print their name on the notarial document?**
A notary public is not required to print their name on the document. There is no statute that provides this information.
14. **How Does A Notary Identify A Signer?**
Generally, a Notary will ask to see a current ID that has a photo, physical description and signature. Acceptable IDs usually include a driver's license or passport.⁹
15. **As a Notary, can I refuse to notarize?**
You can refuse to notarize a document **ONLY** if you have a legitimate reason to deny the person the service of a notary public.
16. **Can I perform document notarizations outside my jurisdiction?**
The notary public should perform document notarizations only within the jurisdiction or geographic boundaries where the notary is authorized to act.
17. **Am I able to notarize documents for relatives?**
A notary public may notarize for relatives, but a better practice would be for a notary to refrain from notarizing the signature of his or her spouse or an immediate family member.
18. **What if I'm a Notary Public and I decide to change my name?**
If a notary public changes their name, (marries), they would continue to sign documents under the name shown on their commission. They can update a name change when they renew their commission.

⁹ <https://www.nationalnotary.org/knowledge-center/about-notaries>

19. Can I be commissioned out of state?

An Alabama state notary public may be commissioned in another state, as well. It would depend upon the requirements of the other state. All notaries public are “state at large” and can notarize documents throughout the state but only within the State of Alabama.

20. How do I file a complaint against a Notary Public?

If an individual wants to file a complaint against a notary public, they should contact the county probate judge. Also, it is recommended that a police report be filed against the notary public. The Secretary of State has no jurisdiction over notaries and no investigatory powers.

21. My commission term has ended. What do I do with my supplies?

When the commission term of a notary comes to an end or when the notary makes the decision to have his/her notary career terminated, it is important to destroy any remaining expired notary supplies. The safe disposal of all defunct notary supplies has to be done in a proper manner, such as burned, smashed, or broken.

22. Am I allowed to do an e-signature?

Currently, there are no rules regarding an electronic signature in the State of Alabama. A wet signature is required.

23. Do I have to put my commission expiration date on a notarial document?

The commission expiration date is not required on a notarial document. If a notary public signs a document after their commission expires, the document is not legally notarized.

24. What do I do I if terminate my commission as a notary?

If you terminate your commission, you should cancel your bond with the county and destroy the notary supplies.

25. Can a notary use a signature stamp to notarize a document?

No, the notary’s original, wet signature is required on the document.

REMOTE NOTARIZATION

The Alabama Legislature, with the passage of Act 2021-319, authorized the remote notarization of documents. Remote notarization may not be used to notarize an absentee ballot application or an absentee ballot affidavit, or for any purpose related to voting. Ala. Code § 36-20-73.1(h).

Under Alabama law, remote notarization is permissible if:

- (1) An original wet signature is signed directly onto the document;

- (2) A two-way audio-video communication technology that allows the notary public and the signatory to communicate by both sight and sound is used and the notary maintains a recording of the communication for seven years; and
- (3) The identity of the signatory is verified by the notary public. Ala. Code § 36-20-73.1.

The two-way audio-video communication must be recorded and maintained by the notary public for at least seven years. Ala. Code § 36-20-73.1(c)(2). The recording must contain:

- (1) The date and time of the remote notarial act.
- (2) A description of the documents to which the remote notarial act relates.
- (3) An attestation by the notary public of being physically located in this state.
- (4) A description of how the identification of the signatory was verified.
- (5) A clear image of any government issued identification, if applicable.
- (6) A clear image of the act of signing observed by the notary public. Ala. Code § 36-20-73.1(e).

Under the Code of Alabama § 36-20-73.1(d), if using remote notarization, the notary public must verify the identity of the signatory by one of two methods:

- (1) The personal knowledge of the notary public of the identity of the signatory; or
- (2) The presentation of two valid forms of government issued ID, one of which includes the face and signature of the signatory, and a process by which the notary public verifies the identity of the signatory through a review of public or private data sources.

The remote notarization law still requires the notary to directly sign and seal the document.

CONCLUSION

Notary Publics perform notarial acts that can represent life-changing events for many citizens.¹⁰ The public office of Notaries Public is exceedingly serious, and anyone chosen for this position has an obligation and responsibility to serve the public. For any questions or concerns, please contact your county probate judge or the Secretary of State's Office.

CONTACT

State Notary Website

<http://sos.alabama.gov/administrative-services/notaries-public>

State of Alabama Online Notary Search

<http://sos.alabama.gov/government-records/notary-public>

¹⁰ <https://www.nationalnotary.org/knowledge-center/about-notaries>

Phone Number

(334) 353-7854

Mailing Address

Office of the Secretary of State
Executive Division - Notaries Public
P.O. Box 5616
Montgomery, AL 36103

For questions regarding this handbook, contact the General Counsel of the Secretary of State by phone at (334) 353-7857, or contact Janice McDonald by phone at (334) 353-7854 or by email at Janice.McDonald@sos.alabama.gov.

For information regarding notary supplies and additional information on becoming a notary, contact your county probate judge or visit the Secretary of State's website under the Services and Administrative Services tabs.