

ARIZONA REVISED STATUTES

**TITLE 41 STATE GOVERNMENT
CHAPTER 2 ADMINISTRATIVE OFFICERS
ARTICLE 2 NOTARIES PUBLIC**

41-311. Definitions

In this article, unless the context otherwise requires:

1. "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is proven by satisfactory evidence, appeared before the notary and acknowledged that the signer signed the document.
2. "Commission" means to authorize to perform notarial acts and the written authority to perform those acts.
3. "Copy certification" means a notarial act in which the notary certifies that the notary has made a photocopy of an original document that is neither a public record nor publicly recordable.
4. "Identity is personally known" means familiarity with an individual resulting from interactions with that person over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.
5. "Incomplete document" means a document that has not been signed where a signature line is provided or where other obvious blanks appear in the document or that lacks a notarial certificate.
6. "Jurat" means a notarial act in which the notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the notary's presence a voluntary signature and has taken an oath or affirmation vouching for the truthfulness of the signed document.
7. "Notarial act" or "notarization" means any act that a notary is authorized to perform under section 41-313.
8. "Notarial certificate" or "certificate" means the part of or attachment to a notarized document for completion by the notary that bears the notary's signature and seal and states the facts that are attested by the Notary in a particular notarization.
9. "Notary public" or "notary" means any person commissioned to perform notarial acts under this article.
10. "Oath" or "affirmation" means a notarial act or part of a notarial act in which a person made a vow in the presence of the notary under penalty of perjury, with reference made to a supreme being in the case of an oath.
11. "Satisfactory evidence of identity" means that proof is evidenced by one of the following:
 - (a) At least one current form of identification issued by the United States Government, a state or tribal government with the individual's photograph, signature and physical description. The individual's physical description contained in the form of identification shall be written and shall include at a minimum a description of the individual's height, weight, color of hair and color of eyes.
 - (b) The oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual.
 - (c) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to subdivision (a) of this paragraph.
 - (d) Personal knowledge of the individual by the notary.
 - (e) For the purposes of a real estate conveyance or financing, a valid unexpired

passport that is issued by the United States government or any other national government. A passport issued by a national government other than the United States government must be accompanied by a valid visa or other documentation issued by the United States government necessary to establish an individual's legal presence in the United States.

41-312. Appointment; term; oath and bond

A. The secretary of state may appoint notaries public in each county to hold office for four years who shall have jurisdiction in the county in which they reside and in which they are appointed. Acknowledgments of documents may be taken and executed and oaths may be administered by a notary public in any county of the state although the commission is issued to the notary public in and for another county.

B. The secretary of state shall give notice of the appointment to the person appointed who shall take, within twenty days after receiving such notice, the oath prescribed by law and give a bond, with sureties approved by the clerk, in an amount prescribed by the secretary of state and file it with the state. Upon filing the official oath and bond the secretary of state shall deliver the commission to such person.

C. A notary public is a public officer commissioned by this state and the following apply without regard to whether the notary public's employer or any other person has paid the fees and costs for the commissioning of the notary public, including costs for the official seal and journals:

1. A notary public's official seal and commission and any journal that contains only public record entries remain the property of the notary public.

2. A notary public may perform notarizations outside the workplace of the notary's employer except during those times normally designated as the notary public's hours of duty for that employer. All fees received by a notary public for notarial services provided while not on duty remain the property of the notary public.

3. An employer of a notary public shall not limit the notary public's services to customers or other persons designated by the employer.

D. A notary public shall continue to serve until the notary public's commission expires, the notary public resigns the commission, the notary public dies or the secretary of state revokes the commission. An employer may not cancel the notary bond or notary commission of any notary public who is an employee and who leaves that employment.

E. A notary public shall comply with all of the following:

1. Be at least eighteen years of age.

2. Be a citizen or a legal permanent resident of the United States.

3. Be a resident of this state for income tax purposes and claim the individual's residence in this state as the individual's primary residence on state and federal tax returns.

4. Except as provided in section 41-330, subsection A, paragraph 2, never have been convicted of a felony.

5. Keep as a reference a manual that is approved by the secretary of state and that describes the duties, authority and ethical responsibilities of notaries public.

F. An applicant for appointment and commission as a notary public shall complete an application form prescribed by the secretary of state. Except for the applicant's name and business address, all information on the application is confidential and may not be disclosed to any person other than the applicant, the applicant's personal representative or an employee or officer of the federal, state or local government who is acting in an official capacity. The secretary of state shall use the information contained on the

application only for carrying out the purposes of this article.

G. The state or any of its political subdivisions may pay the fees and costs for the commissioning of a notary public who is an employee of this state or any of its political subdivisions and who performs notarial services in the course of the notary public's employment or for the convenience of public employees.

41-313. Duties

A. Notaries public shall perform the following notarial acts, when requested:

1. Take acknowledgments and give certificates of the acknowledgments endorsed on or attached to the instrument.

2. Administer oaths and affirmations.

3. Perform jurats.

4. Perform copy certification.

B. Notaries public shall:

1. Keep, maintain and protect as a public record a journal of all official acts performed by the notary as described in section 41-319.

2. Provide and keep the official seal that is imprinted in dark ink with the words "notary public", the name of the county in which the notary is commissioned, the name of the notary as it appears on the notarial application, the great seal of the state of Arizona and the expiration date of the notarial commission.

3. Authenticate with the official seal all official acts, and affix the date of the expiration of the notary's commission as the notary on every certificate or acknowledgment signed and sealed by the notary.

4. Respond to any requests for information and comply with any investigations that are initiated by the secretary of state or the attorney general.

41-314. Notary bond fund; purpose; exemption

A. The notary bond fund is established consisting of monies received pursuant to section 41-178.

B. The secretary of state shall administer the fund and spend monies in the fund in order to defray the cost of the secretary of state's office assuming the responsibilities associated with the processing and administration of notary bonds.

C. On notice from the secretary of state, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

D. Monies in the fund are continuously appropriated and exempt from the provisions of section 35-190 relating to lapsing of appropriations.

41-315. Bond

A. A person who has been commissioned as a notary shall file an oath of office with the secretary of state and a bond in an amount prescribed by the secretary of state in order for the commission to become effective. A licensed surety shall execute the bond. The bond shall be effective for four years beginning on the commission's effective date.

B. The secretary of state shall not accept any bond that was issued more than sixty days before or more than thirty days after the date on which the secretary of state commissions a notary.

41-316. Fees

A. The secretary of state shall establish fees that notaries public may charge for notarial acts. These fees shall be established by rules adopted pursuant to chapter 6 of this title.

B. Notaries public may be paid an amount up to the amount authorized for mileage expenses and per diem subsistence for state employees as prescribed by title 38, chapter 4, article 2.

C. A notary shall not charge or receive a fee for performing a notarial act except as specifically authorized by rule.

41-317. Delivering notarial seal, notarial journal and records; failure to comply; storing records; certified copies

A. On the resignation or revocation of a notarial commission or the death of a notary, the notary seal, notarial journal and records, except those records of notarial acts that are not public record, shall be delivered by certified mail or other means providing a receipt to the secretary of state. If a notary does not apply for reappointment, on expiration of the notarial commission the notary seal, journal and records shall be delivered to the secretary of state as required for resignation under this subsection. A notary who neglects for three months thereafter to deposit such records, seal and papers, or the personal representative of a deceased notary who neglects for three months after his appointment to deposit such records, seal and papers, shall forfeit to the state not less than fifty nor more than five hundred dollars.

B. While a notary public is commissioned, a notary public shall keep all records and journals of the notary's acts for at least five years after the date the notarial act was performed. On receipt of the records and journals from a notary public who no longer is commissioned, the secretary of state shall keep all records and journals of notaries public deposited in the secretary of state's office for five years and shall give certified copies thereof when required, and for the copy certifications the secretary of state shall receive the same fees as are by law allowed to notaries public. The copy certifications shall be as valid and effectual as if given by a notary public.

41-318. Wilful destruction of records; penalty

Any person who knowingly destroys, defaces or conceals any journal entry or records belonging to the office of a notary public shall forfeit to the state an amount not exceeding five hundred dollars and shall be liable for damages to any party injured thereby.

41-319. Journal

A. The notary shall keep a paper journal and, except as prescribed by subsection E, shall keep only one journal at a time. The notary shall record all notarial acts in chronological order. The notary shall furnish, when requested, a certified copy of any public record in the notary's journal. Records of notarial acts that violate the attorney-client privilege or that are confidential pursuant to federal or state law are not public record. Each journal entry shall include at least:

1. The date of the notarial act.
2. A description of the document or type of notarial act.
3. The printed full name, signature and address of each person for whom a notarial act is performed.

4. The type of satisfactory evidence of identity presented to the notary by each person for whom a notarial act is performed, if other than the notary's personal knowledge of the individual is used as satisfactory evidence of identity.

5. A description of the identification document, its serial or identification number and its date of issuance or expiration.

6. The fee, if any, charged for the notarial act.

B. If a notary has personal knowledge of the identity of a signer, the requirements of subsection A, paragraphs 1 through 5 may be satisfied by the notary retaining a paper or electronic copy of the notarized documents for each notarial act.

C. If a notary does more than one notarization for an individual within a six month period, the notary shall have the individual provide satisfactory evidence of identity the first time the notary performs the notarization for the individual but may not require satisfactory evidence of identity or the individual to sign the journal for subsequent notarizations performed for the individual during the six month period.

D. If a notary performs more than one notarization of the same type for a signer either on like documents or within the same document and at the same time, the notary may group the documents together and make one journal entry for the transaction.

E. If one or more entries in a notary public's journal are not public records, the notary public may keep one journal that contains entries that are not public records and one journal that contains entries that are public records. A notary public's journal that contains entries that are not public records is the property of the employer of that notary public and shall be retained by that employer if the notary public leaves that employment. A notary public's journal that contains only public records is the property of the notary public without regard to whether the notary public's employer purchased the journal or provided the fees for the commissioning of the notary public.

F. Except as provided in subsections A and E, the notary's journal is a public record that may be viewed by or copied for any member of the public, but only upon presentation to the notary of a written request that details the month and year of the notarial act, the name of the person whose signature was notarized and the type of document or transaction.

41-320. Competency of bank and corporation notaries

A. It is lawful for a notary public who is a stockholder, director, officer or employee of a corporation to take the acknowledgment or oath of any party to any written instrument executed to or by the corporation, or to administer an oath to any other stockholder, director, officer, employee or agent of the corporation, or to protest for nonacceptance or nonpayment of bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by the corporation.

B. It is unlawful for any notary public to take the acknowledgment of an instrument executed by or to a corporation of which he is a stockholder, director, officer or employee, where the notary is a party to the instrument, either individually or as a representative of the corporation, or to protest any negotiable instrument owned or held for collection by the corporation, where the notary is individually a party to the instrument.

41-321. Obtaining a seal; violation; classification

A. A vendor of notary seals may not provide an official seal to a person unless the person presents a photocopy of the person's notarial commission. The vendor shall retain the photocopy for four years.

B. A notary public's official seal may be any shape and shall produce a stamped seal that is no more than one and one-half inches high and two and one-half inches wide. A notary public may possess only one official seal but may also possess and use an

embossing seal that may be used only in conjunction with the notary public's official seal. An embossing seal is not an official seal of a notary public.

C. A person who violates this section is guilty of a class 3 misdemeanor.

41-322. Authentication of authority of officer for foreign notarizations

A. If a notarial act is performed by any of the persons described in section 33-501, paragraphs 1 through 4, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank or title and serial number, if any, of the person is sufficient proof of the authority of the person to perform the act. Further proof of the person's authority is not required.

B. If a notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, any of the following is sufficient proof of the authority of the person to perform the act:

1. Certification by a foreign service officer of the United States resident in the country in which the notarial act is performed or a diplomatic or consular officer of the foreign country resident in the United States that a person who holds the office that the person holds is authorized to perform notarial acts.

2. Affixation to the notarized document of the official seal of the person performing the notarial act.

3. The appearance either in a digest of foreign law or in a list that is customarily used as a source of such information of the title and the indication of authority to perform notarial acts of the person.

C. If a notarial act is performed by a person other than a person described in subsections A and B of this section, sufficient proof of the authority of the person to act exists if the secretary of state certifies to the official character of the person and to the person's authority to perform the notarial act.

D. The signature and title of a person performing a notarial act are prima facie evidence that the person is a person with the designated title and that the signature is genuine.

41-323. Change of address; lost journal or seal; civil penalty

A. Within thirty days after the change of a notary's mailing or residential address, the notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the change that provides both the old and new addresses.

B. Within ten days after the loss or theft of an official journal or seal, the notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the loss or theft. The notary also shall inform the appropriate law enforcement agency in the case of theft.

C. If a notary fails to comply with subsection A or B, the notary has failed to fully and faithfully discharge the duties of a notary and the secretary of state may impose a civil penalty of twenty-five dollars against the notary. The notary shall pay any civil penalty imposed by the secretary of state pursuant to this subsection prior to the renewal of the notary's commission.

41-324. Court reporters; notarial acts

A. Court reporters who administer oaths and affirmations in judicial proceedings are exempt from the provisions of this chapter other than section 41-315. Court reporters who are commissioned as notaries and who perform notarial acts outside of judicial proceedings are subject to all provisions of this chapter and of other laws of this state that

regulate notaries public.

B. A court reporter who prepares a transcript of a judicial proceeding shall attach a certificate page to the transcript. On the certificate page, the court reporter shall attest to the fact that the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript.

C. An affidavit of nonappearance that is prepared by a court reporter does not need to be witnessed by a notary.

41-325. Evidence of authenticity of a notarial act performed in this state

A. The authenticity of the official notarial seal and signature of a notary may be evidenced by either:

1. A certificate of authority from the secretary of state authenticated as necessary.

2. An apostille from the secretary of state in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

B. An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

41-326. Apostille

An apostille prescribed by the Hague convention, as cited in 28 United States Code in annotations to rule 44 of the federal rules of civil procedure, shall be in the form of a square with sides at least nine centimeters long and shall contain exactly the following wording:

Apostille

(Convention de la haye du 5 Octobre 1961)

1. Country: _____

This public document

2. Has been signed by _____

3. Acting in the capacity of _____

4. Bears the seal/stamp of _____

Certified

5. At _____ 6. The _____

7. By _____

8. No. _____

9. Seal/stamp

10. Signature _____

41-327. Name change; new commission

A notary public who has a change of surname due to marriage may continue to use the official seal and commission in the notary public's prior name until that commission expires. The notary shall sign the changed surname on the line that is designated for the notary public's signature on the notarial certificate. Immediately below that signature, the notary public shall sign the name under which the notary was commissioned. The notary public shall notify the secretary of state's office within thirty days of the notary's change of surname. Failure to notify the secretary of state of the change of surname is evidence of the notary's failure to fully and faithfully discharge the duties of a notary.

41-328. Prohibited conduct; incomplete documents; signatures of relatives

A. A notary public shall not perform a jurat on a document that is incomplete. If a notary public is presented with a document that the notary knows from experience to be incomplete or if the document on its face is incomplete the notary public shall refuse to perform the jurat.

B. A notary public is an impartial witness and shall not notarize the notary's own signature or the signatures of any person who is related by marriage or adoption.

41-329. Notary public title; foreign language; violation; classification

A. Every notary public who is not an attorney who advertises, by any written or verbal means, the services of a notary public in a language other than English, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and the other language. The notice shall be of conspicuous size, if in writing, and shall state: "I am not an attorney and cannot give legal advice about immigration or any other legal matters."

B. A notary public who violates subsection A of this section is guilty of a class 6 felony and the notary public's commission shall be permanently revoked.

41-330. Grounds for refusal or revocation of commission

A. The secretary of state may refuse to appoint any person as a notary public or may revoke or suspend the commission of any notary public for any of the following reasons:

1. Substantial and material misstatement or omission in the application for a notary public commission that is submitted to the secretary of state.

2. Conviction of a felony unless restored to civil rights, or of a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of a notary public. A conviction after a plea of no contest is deemed to be a conviction for purposes of this paragraph.

3. Revocation, suspension, restriction or denial of a professional license if that action was for misconduct, dishonesty or any cause that substantially relates to the duties or responsibilities of a notary public.

4. Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.

5. The use of false or misleading advertising in which the notary public has represented that the notary public has duties, rights or privileges that the notary public does not possess by law.

6. Charging more than the fees authorized by statute or rule.

7. The commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the notary public or another person or to substantially injure another

person.

8. Failure to complete the acknowledgment or jurat at the time the notary's signature and seal are affixed to the document.

9. Failure to administer the oath or affirmation required at the time of performing a jurat for an individual.

10. Execution of any notarial certificate by the notary public containing a statement known by the notary public to be false.

11. The return for insufficient funds or any other reason for nonpayment of a check issued for the bond filing fees or the application fees to the secretary of state.

12. Notarizing a document that contains no notarial certificate.

B. If an application is denied the secretary of state shall notify the applicant within thirty days after receipt of the application and shall state the reasons for the denial.

C. The secretary of state may suspend the commission of a notary for at least thirty days and for not more than one hundred eighty days.

D. If a person has had a notary commission in this state revoked, the secretary of state may refuse to appoint the person as a notary public for four years from the date of the revocation.

E. On revocation or suspension of a notary public's commission, the secretary of state shall give notice to the notary public and shall provide the person with notice of the opportunity for a hearing on the revocation or suspension pursuant to chapter 6 article 10 of this title. The revocation of a notary public commission is an appealable agency action.

41-331. Complaints; investigations

A. Any person may make a complaint to the office of the secretary of state regarding a notary public. The secretary of state shall receive any complaints and shall provide notice of those complaints to the office of the attorney general who shall investigate and take action on all complaints involving allegations of any violations of this article.

B. A notary's failure to respond to an investigation is a failure by the notary to fully and faithfully discharge the responsibilities and duties of a notary.

ARTICLE 3 "ELECTRONIC NOTARIZATION"

41-351. Definitions

In this article, unless the context otherwise requires:

1. "Approved time stamp provider" means a person or organization recognized by the secretary of state as capable of reliably providing time stamp services on notary service electronic documents.

2. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

3. "Electronic acknowledgment" means a notarial act in which an electronic notary electronically certifies that the signer, whose identity is proven by satisfactory evidence, either:

(a) Appeared before the electronic notary and acknowledged that the signer executed the instrument.

(b) Provided secure electronic acknowledgment that the signer executed the electronic instrument presented to the electronic notary.

4. "Electronic commission" means the written authority to perform electronic notarization acts.

5. “Electronic document” means any record created, generated, sent, communicated, received or stored by electronic means.

6. “Electronic jurat” means an electronic notarial act in which the electronic notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the electronic notary’s presence a voluntary electronic signature or mark and has taken an oath or affirmation vouching for the truthfulness of the signed electronic document.

7. “Electronic notary public” or “electronic notary” means any person commissioned to perform notarial acts under this article.

8. “Electronic notary token” means the electronic attachment to a notarized electronic document that is attached by the electronic notary and that contains the notary’s electronic signature. The electronic notary token is linked to the electronic document to which it relates in a manner so that if the document is changed the electronic notary token is invalidated.

9. “Electronic signature” means an electronic method or process that through the application of a security procedure allows a determination that the electronic signature at the time it was executed was all of the following:

(a) Unique to the person using it.

(b) Capable of verification.

(c) Under the sole control of the person using it.

(d) Linked to the electronic document to which it relates in a manner so that if the document is changed the electronic signature is invalidated.

10. “Notary service electronic certificate” means the materials and methods issued by an electronic notary to a prospective signer so that signer may create a notary service electronic signature.

11. “Notary service electronic signature” means an act completed by a signer using a properly issued notary service electronic certificate to sign an electronic document.

12. “Oath” or “affirmation” means an act in which a person makes a vow in the presence of the electronic notary under penalty of perjury, with reference made to a supreme being in the case of an oath.

13. “Personal knowledge of identity” means familiarity with an individual resulting from interactions with that individual over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.

14. “Satisfactory evidence of identity” means that proof of identity is evidenced by one of the following:

(a) At least one current form of identification issued by a federal, state or tribal government with the individual’s photograph, signature and written physical description.

(b) The oath or affirmation of a credible person who is personally known to the electronic notary and who personally knows the individual signer.

(c) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to subdivision (a) of this paragraph.

(d) Personal knowledge of the individual signer by the electronic notary.

(e) For the purposes of a real estate conveyance or financing, a valid unexpired passport that is issued by the United States government or any other national government. A passport issued by a national government other than the United States government must be accompanied by a valid visa or other documentation issued by the United States government necessary to establish an individual’s legal presence in the United States.

15. “Time stamp token” means a secure electronic method to affix a statement of the

time and date that the document was recognized as a valid notary service electronic document by an approved time stamp provider. A time stamp token is attached by an approved time stamp provider to the document in a way that if the document changes the time stamp token is invalidated.

41-352. Applicability of article; electronic signature laws

A. Any notarial act in which a person by oath or affirmation signs a document may be performed electronically as prescribed by this article if under applicable law that document may be signed with an electronic signature.

B. Unless otherwise expressly prohibited by law, the following notarial acts, terms and entities have the same legal effect as those prescribed by article 2 of this chapter:

1. Electronic acknowledgment as acknowledgment.
2. Electronic oath as oath.
3. Electronic jurat as jurat.
4. Electronic affidavit as affidavit.
5. Electronic notarial act as notarial act.
6. Electronic notarial certificate token as notarial certificate.
7. Electronic notary as notary.

C. An electronic commission is a commission to perform only electronic notary acts. And only an electronic notary is authorized to perform electronic notary acts.

D. Unless otherwise expressly prohibited by law, any electronic notarial act may be performed by either:

1. An act in the presence of an electronic notary as prescribed by this article.
2. An electronic notarial service as prescribed by this article for which the person signing appears before an electronic notary and by oath or affirmation acknowledges that any notary service electronic document that is created by the person pursuant to this article has the same legal force and effect as if the person appeared before an electronic notary and by oath or affirmation executed an electronic notarial act.

E. Section 41-132 applies in conjunction with this article to electronic signatures used by electronic notaries.

F. This article applies to electronic notarial acts that are performed by electronic notaries who are appointed in this state and applies only to their acts performed in the United States.

41-353. Appointment; term; oath and bond

A. The secretary of state may appoint electronic notaries public to hold office for four years.

B. The secretary of state shall prescribe the application form for an electronic notary. Applicants shall submit the application to the secretary of state with a filing fee, a bond and a bond filing fee as prescribed by rule by the secretary of state.

C. The materials and methods for creating notary service electronic certificates and any other encryption based technologies used by an electronic notary shall have a maximum useful life of two years and shall not exceed the life of the electronic notary commission.

D. An electronic notary public is a public officer commissioned by this state and the following apply without regard to whether the electronic notary public's employer or any other person has paid the fees and costs for the commissioning of the electronic notary public, including costs for the materials and methods employed with the electronic notary

token and the materials and methods for creating notary service electronic certificates and journals:

1. All of the following remain the property of the electronic notary:

(a) The materials and methods employed with and solely for the electronic notary token.

(b) The materials and methods used solely for creating notary service electronic certificates.

(c) Any journals containing only public information record entries.

2. Notwithstanding paragraph 1 of this subsection, an electronic notary does not gain ownership or presumptive access rights to any of an employer's assets or resources that are used or are usable for a purpose other than electronic notarial acts.

3. An electronic notary may perform electronic notarizations outside the workplace of the electronic notary's employer except during those times normally designated as the electronic notary's hours of duty for that employer. All fees received by an electronic notary for electronic notarial services provided while not on duty remain the property of the electronic notary.

4. An employer of an electronic notary shall not limit the electronic notary's services to customers or other persons designated by the employer.

E. An electronic notary public shall continue to serve until the electronic notary's commission expires, the electronic notary resigns the commission, the electronic notary dies or the secretary of state suspends or revokes the commission. An employer shall not cancel the electronic notary bond or electronic notary commission of any electronic notary who is an employee and who leaves that employment.

F. An electronic notary shall comply with all of the following:

1. Be at least eighteen years of age.

2. Be a resident of this state for income tax purposes and claim the individual's residence in this state as the individual's primary residence on state and federal tax returns.

3. Except as provided in section 41-368, subsection A, paragraph 2, never have been convicted of a felony.

4. Keep as a reference a manual that is approved by the secretary of state and that describes the duties, authority and ethical responsibilities of electronic notaries public.

G. An applicant for appointment and commission as an electronic notary shall complete an application form prescribed by the secretary of state. Except for the applicant's name, physical business address, electronic business address and business telephone number, all other information on the application is confidential and shall not be disclosed to any person other than the applicant, the applicant's personal representative or an officer or employee of the federal government or this state or its political subdivisions who is acting in an official capacity. The secretary of state shall use the information contained on the application only for carrying out the purposes of this article.

H. The state or any of its political subdivisions may pay the fees and costs for the commissioning of an electronic notary who is an employee of this state or any of its political subdivisions and performs electronic notarial services in the course of the electronic notary's employment or for the convenience of public employees.

41-354. Notarized electronic documents; elements

A. A notarized electronic document consists of the following:

1. A complete electronic document.

2. A signature or mark that is affixed to the document by the signer.

3. A time and date statement that is affixed to the document in a manner that is approved by the secretary of state.

4. An electronic notary token that is affixed to the document in a manner that is approved by the secretary of state.

B. On completion of the notarized electronic document, any change to any of the elements prescribed in subsection A invalidates the notarized electronic document.

41-355. Duties; electronic notarization in presence of electronic notary

A. Electronic notaries public shall perform the following electronic notarial acts when requested:

1. Take electronic acknowledgments.

2. Administer oaths and affirmations relating to electronic documents and electronic notarial acts.

3. Perform jurats relating to electronic documents and electronic notarial acts.

4. Educate notary service electronic signature certificate applicants about the responsibilities and consequences of the use of the certificate.

5. Administer an oath or affirmation that the notary service electronic signature certificate applicant understands the responsibilities and consequences of using a notary service electronic signature certificate to sign a notary service electronic document and that the electronic signature certificate has the same legal force and effect as any notarial act made before a notary public pursuant to article 2 of this chapter.

6. Register the notary service electronic signature certificate applicant for the issuance of a notary service electronic signature certificate that has a maximum useful life of two years.

B. A notarized electronic document that is completed in the presence of an electronic notary consists of the following:

1. A complete electronic document.

2. A signature or mark that is affixed to the document by the signer.

3. A time and date statement that is contained within the electronic notary token.

4. An electronic notary token that is affixed by the electronic notary to the document.

C. On completion of the notarized electronic document, any change to any of the elements prescribed in subsection B of this section invalidates the notarized electronic document.

D. An electronic notary public shall:

1. Keep, maintain and protect as a public record a journal of all official acts performed by the notary as prescribed in section 41-361 and in the form prescribed by the secretary of state.

2. Provide and keep the materials and processes to create an electronic notary token as approved by the secretary of state.

3. Authenticate with the electronic notary token all official acts and affix the date of the expiration of the notary's commission as an electronic notary on every document that the electronic notary electronically signs.

4. Respond to any requests for information and comply with any investigations that are initiated by the secretary of state or the office of the attorney general.

41-356. Electronic notarization without presence of electronic notary

A. An electronic notary may issue a notary service electronic certificate to a signer who does all of the following:

1. Provides satisfactory evidence of the signer's identity.

2. Voluntarily signs or makes the signer's mark on the electronic document.
 3. Makes an oath or affirmation that vouches for the truthfulness of the signing.
 4. Acknowledges that the electronic signing and oath or affirmation have the same legal force and effect as if done in the presence of the notary.
- B. A notary service electronic certificate shall include the agreement of the signer to use the certificate for signing an electronic document with notarial intent.
- C. A notarized electronic document formed by the use of a notary service electronic certificate consists of the following:
1. A complete electronic document.
 2. A notary service electronic signature that is affixed to the document by the signer.
 3. A time stamp token that is affixed to the document by an approved time stamp token provider.
 4. An electronic notary token that is incorporated into the notary service electronic signature and that is used by the signer in a manner approved by the secretary of state.
- D. On completion of the notarized electronic document, any change to any of the elements prescribed in subsection C invalidates the notarized electronic document.
- E. On proper issuance and receipt of a notary service electronic certificate, execution of the electronic signature, attachment of the notary token and attachment and validation of the time stamp token, a notary service electronic document is fully executed and valid for those purposes that allow the use of a notary service electronic document.

41-357. Bond

A. A person who has been commissioned as an electronic notary shall file an oath of office and a bond with the secretary of state. A licensed surety shall execute the bond. The bond is effective for four years beginning on the commission's effective date.

B. The secretary of state shall not accept any bond that was issued more than sixty days before or more than thirty days after the date on which the secretary of state commissions an electronic notary.

41-358. Fees; rules

A. Electronic notaries public may receive fees for the following services:

1. Acknowledgments.
2. Oaths and affirmations.
3. Jurats.
4. Issuance of notary service electronic certificates.

B. The secretary of state shall determine by rule fees for services.

41-359. Delivering notarial journals and records; failure to comply; civil penalty; storing records; certified copies

A. On the resignation or revocation of an electronic notarial commission, the death of a notary or the expiration of an electronic commission, the electronic notarial journal and records, except those records of notarial acts that are not public record, shall be delivered by certified mail or other means providing a receipt to the office of the secretary of state. If an electronic notary does not apply for reappointment, on expiration of the notarial commission the journal and records shall be delivered to the secretary of state as required for resignation under this subsection. If an electronic notary or the personal representative of a deceased electronic notary does not deposit these records and papers within three months of the expiration of the commission, the secretary of state shall order the notary

or the notary's personal representative to pay a civil penalty of at least fifty dollars but not more than five hundred dollars.

B. While an electronic notary public is commissioned, an electronic notary public shall keep all records and journals of the notary's acts for at least five years after the date the electronic notarial act was performed. On receipt of the records and journals from an electronic notary public who no longer is commissioned, the secretary of state shall keep all records and journals of electronic notaries public deposited in the secretary of state's office for five years and shall give certified copies when required, and for the copy certifications the secretary of state shall receive the same fees allowed by law to electronic notaries public pursuant to section 41-358. The copy certifications are as valid and effective as if given by an electronic notary public.

41-360. Destruction of records; penalty

Any person who knowingly destroys, defaces or conceals any journal entry or records belonging to the office of an electronic notary public shall forfeit to the state not more than five hundred dollars and is liable for damages to any injured party.

41-361. Journal; confidential records

A. The electronic notary shall keep or shall contract with a party that complies with procedures established by the secretary of state to keep a journal in a form approved by the secretary of state. The electronic notary shall record all notarial acts in chronological order. The electronic notary shall furnish, when requested, a certified copy of any specific public record in the notary's journal. Records of notarial acts that violate the attorney-client privilege or that are confidential pursuant to federal law or the laws of this state are not public record. Each journal entry shall include at least:

1. The date of the electronic notarial act.
2. A description of the document date, time and type of electronic notarial act.
3. The full name and address of each person for whom an electronic notarial act is performed and a description of the verification of the signer's mark.
4. The type of satisfactory evidence of identity presented to the electronic notary by each person for whom an electronic notarial act is performed.
5. A description of the identification document, its serial or identification number and its date of issuance or expiration.
6. The fee, if any, charged for the electronic notarial act.

B. If an electronic notary has personal knowledge of the identity of a signer, the requirements of subsection A, paragraphs 1 through 5 may be satisfied by the notary retaining a paper or electronic copy of the electronic notarized documents for each electronic notarial act.

C. If an electronic notary does more than one notarization for an individual within a six month period, the electronic notary shall have the individual provide satisfactory evidence of identity the first time the electronic notary performs the notarization for the individual but need not require satisfactory evidence of identity or the individual to sign the journal for subsequent notarizations performed for the individual during the six month period.

D. Except as provided in subsection A, the electronic notary's journal is a public record that may be viewed by or copied for any member of the public, but only on presentation to the notary of a written request that details the month and year of the electronic notarial act, the name of the person whose signature was notarized and the type of document or transaction. An electronic notary shall provide a copy of the requested

entry in a form the secretary of state prescribes by rule.

41-362. Competency of corporation notaries

A. An electronic notary public who is a stockholder, director, officer or employee of a corporation may do any of the following:

1. Take the acknowledgment or oath of any party to any written instrument executed to or by the corporation.
2. Administer an oath to any other stockholder, director, officer, employee or agent of the corporation.
3. Protest for nonacceptance or nonpayment of bills of exchange, drafts, checks, notes and other negotiable instruments that the corporation owns or holds for collection.

B. An electronic notary public shall not do any of the following:

1. Take the acknowledgment of an instrument executed by or to a corporation of which the electronic notary is a stockholder, director, officer or employee, if the notary is a party to the instrument, either individually or as a representative of the corporation.
2. Protest any negotiable instrument that the corporation owns or holds for collection, if the notary is individually a party to the instrument.

41-363. Authentication of authority of officer for foreign notarizations

An electronic notarial act performed by any of the persons described in section 33-501 shall be recognized in this state if the notarial act creates an electronically notarized electronic document as prescribed by this article.

41-364. Change of address; lost or stolen electronic journal or seal; civil penalty

A. Within thirty days after the change of an electronic notary's mailing, residential or electronic address, the electronic notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the change that provides both the old and new addresses.

B. Within ten days after the loss or theft of an official journal or any materials or processes used in creating an electronic notary token or registering notary service electronic certificate applicants, the electronic notary shall deliver to the secretary of state, by certified mail or other means providing a receipt, a signed notice of the loss or theft. The electronic notary also shall inform the appropriate law enforcement agency in the case of theft.

C. If an electronic notary fails to comply with subsection A or B, the electronic notary has failed to fully and faithfully discharge the duties of an electronic notary and the secretary of state may impose against the electronic notary a civil penalty in an amount the secretary of state prescribes by rule. The electronic notary shall pay any civil penalty imposed by the secretary of state pursuant to this subsection before the renewal of the notary's commission.

41-365. Name change; new commission

A. An electronic notary whose name changes shall apply for new methods and materials issued to the electronic notary to create electronic notary tokens under the new name.

B. An electronic notary shall notify the secretary of state within thirty days after the notary's change of name. If the electronic notary fails to comply with this subsection, the electronic notary has failed to fully and faithfully discharge the duties of an electronic notary.

41-366. Prohibited conduct; incomplete documents; signatures of relatives

A. An electronic notary public shall not perform an electronic jurat on a document that is incomplete. If an electronic notary public is presented with a document that the

electronic notary knows from experience to be incomplete or if the document on its face is incomplete, the electronic notary public shall refuse to perform the jurat.

B. An electronic notary public is an impartial witness and shall not notarize the notary's own signature or the signatures of any person who is related by marriage or adoption.

41-367. Electronic notary public title; foreign language; violation; classification

A. Every electronic notary public who is not an attorney and who advertises, by any written or verbal means, the services of an electronic notary public in a language other than English, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and the other language. The notice shall be in of conspicuous size, if in writing, and shall state: "I am not an attorney and cannot give legal advice about immigration or any other legal matters."

B. An electronic notary public who violates subsection A is guilty of a class 6 felony and the secretary of state shall permanently revoke the electronic notary public's commission.

41-368. Grounds for refusal or revocation of commission

A. The secretary of state may refuse to appoint any person as an electronic notary public or may suspend or revoke the commission of any electronic notary public for any of the following reasons:

1. Substantial and material misstatement or omission in the application for an electronic notary public commission that is submitted to the secretary of state.
2. Conviction of a felony unless restored to civil rights, or of a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of an electronic notary public. A conviction after a plea of no contest is deemed to be a conviction for purposes of this paragraph.
3. Revocation, suspension, restriction or denial of a professional license if that action was for misconduct, dishonesty or any cause that substantially relates to the duties or responsibilities of an electronic notary public.
4. Failure to discharge fully and faithfully any of the duties or responsibilities required of an electronic notary public.
5. The use of false or misleading advertising in which the electronic notary public has represented that the electronic notary public has duties, rights or privileges that the electronic notary public does not possess by law.
6. Charging more than the fees authorized by statute or rule.
7. The commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit the electronic notary public or another person or to substantially injure another person.
8. Failure to complete the electronic acknowledgment or electronic jurat at the time the electronic notary's signature and seal are affixed to the document.
9. Failure to administer the oath or affirmation required at the time of performing an electronic jurat for an individual.
10. Execution of any electronic notarial certificate by the electronic notary public containing a statement known by the electronic notary public to be false.
11. The return for insufficient funds or any other reason for nonpayment of a check issued for fees to the secretary of state.
12. Notarizing a document that does not contain a notarial certificate.

B. If an application is denied, the secretary of state shall notify the applicant within thirty days after receipt of the application and shall state the reasons for the denial.

C. The secretary of state may suspend the commission of an electronic notary for at least thirty days and for not more than one hundred eighty days.

D. If a person has had an electronic notary commission in this state revoked, the secretary of state may refuse to appoint the person as an electronic notary for four years after the date of the revocation.

E. On revocation or suspension of an electronic notary public's commission, the secretary of state shall give notice to the electronic notary public and shall provide the person with notice of the opportunity for a hearing on the revocation or suspension pursuant to chapter 6, article 10 of this title. The revocation or suspension of an electronic notary public commission is an appealable agency action.

41-369. Duties of secretary of state

The secretary of state shall adopt rules pursuant to chapter 6 of this title that establish policies, procedures, fees and any other duties or services required by this article.

41-370. Complaints; investigations; failure to respond

A. Any person may make a complaint to the office of the secretary of state regarding an electronic notary. The secretary of state shall receive any complaints and shall provide notice of those complaints to the office of the attorney general. The office of attorney general shall investigate and take action on all complaints involving any allegation of a violation of this article.

B. An electronic notary's failure to respond to an investigation is a failure by the notary to fully and faithfully discharge the responsibilities and duties of an electronic notary.

38-413. Charging excessive fees; classification

A. If an officer demands and receives a higher fee than prescribed by law, or any fee not so allowed, such officer shall be liable to the party aggrieved in an amount four times the fee unlawfully demanded and received by him.

B. An officer who violates this section is guilty of a class 5 felony.

TITLE 11 COUNTIES

CHAPTER 3 COUNTY OFFICERS

ARTICLE 3.1 UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

11-487.02. Validity of electronic documents

A. if a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium or be in writing, the requirement is satisfied by an electronic document satisfying this article.

B. If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

C. A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. a physical or electronic image of a stamp, impression or seal need not accompany an electronic signature.

TITLE 44 TRADE AND COMMERCE

**CHAPTER 26 ELECTRONIC TRANSACTIONS
ARTICLE 1 GENERAL PROVISIONS**

44-7011. Notarization; acknowledgment

Notwithstanding title 41, chapter 2, article 2, if the law requires a signature or record to be notarized, acknowledged, verified or made under oath, that requirement is satisfied if a notary completes a notarial act on the electronic message or document. That notarial act on the electronic message or document is complete without the imprint of the notary's seal if all of the following apply:

1. The electronic message or document is signed pursuant to this chapter or section 41-132 in the presence of a notary.
2. The notary confirms that the electronic signature on the electronic message or document is verifiably the electronic signature issued to the signer pursuant to this chapter or section 41-132.
3. The notary electronically signs with an electronic signature that is consistent with this chapter, any electronic notary law or any other applicable law.
4. The following information appears electronically within the message electronically signed by the notary:
 - (a) The notary's full name and commission number exactly as it appears on the notary's commission.
 - (b) The words "electronic notary public", "state of Arizona" and "my commission expires on (date)".
 - (c) The address of the notary's principal place of contact exactly as it appears on the notary's commission.
 - (d) The notary's e-mail or other electronic address exactly as it appears on the notary's commission.

ARTICLE 2 SECURE ELECTRONIC RECORDS AND SIGNATURES

44-7034. Electronic notarization; acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, that requirement is satisfied if all of the following are true:

1. A secure electronic signature of the individual who is authorized to perform those acts and all other information that is required to be included pursuant to any other applicable law are applied to a secure electronic record.
2. The secure electronic record has a time stamp token that is both:
 - (a) Created by a party recognized by the secretary of state.
 - (b) In a form that is accepted by the secretary of state to do all of the following:
 - (i) Reasonably verify the validity of the signing party's secure electronic signature.
 - (ii) Reasonably establish the time of signing.
3. The secure electronic record cannot be altered without invalidating the time stamp token.

**TITLE 33 PROPERTY
CHAPTER 4 CONVEYANCES AND DEEDS
ARTICLE 5 UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT**

33-501. Recognition of notarial acts performed outside this state

For the purposes of this article, “notarial acts” means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

1. A notary public authorized to perform notarial acts in the place in which the act is performed.
2. A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.
3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States department of state to perform notarial acts in the place in which the act is performed.
4. A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States.
5. Any other person authorized to perform notarial acts in the place in which the act is performed.

33-502. Authentication of authority of officer

A. If the notarial act is performed by any of the persons described in section 33-501, paragraphs 1 to 4, inclusive, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

B. If the notarial act is performed by a person authorized by the laws or regulations of a foreign county to perform the act, there is sufficient proof of the authority of that person to act if:

1. Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act, or
2. The official seal of the person performing the notarial act is affixed to the document, or
3. The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

C. If the notarial act is performed by a person other than one described in subsections A and B, there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

D. The signature and title of the person performing the act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

33-503. Certificate of person taking acknowledgment

The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before him and acknowledged he executed the instrument, and
2. The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

33-504. Recognition of certificate of acknowledgment

The form of a certificate of acknowledgment used by a person whose authority is recognized under section 33-501 shall be accepted in this state if:

1. The certificate is in a form prescribed by the laws or regulations of this state, or
2. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken, or
3. The certificate contains the words “acknowledged before me”, or their substantial equivalent.

33-505. Certificate of acknowledgment

The words “acknowledged before me” mean that:

1. The person acknowledging appeared before the person taking the acknowledgment.
2. He acknowledged he had executed the instrument.
3. In the case of:
 - (a) A natural person, he executed the instrument for the purposes therein stated.
 - (b) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated.
 - (c) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of the partnership for the purposes therein stated.
 - (d) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated.
 - (e) A person acknowledging as a public officer, trustee, personal representative, administrator, guardian, or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated.
4. The person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

33-506. Short forms of acknowledgment

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this state. The forms shall be known as “statutory short forms of acknowledgment” and may be referred to by that name. The authorization of the following forms does not preclude the use of other forms:

1. For an individual acting in his own right:

State of _____
 County of _____

The foregoing instrument was acknowledged before me this (date) by (name of person

acknowledged.)

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

2. For a corporation:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title or officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

3. For a partnership:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

4. For an individual acting as principal by an attorney in fact:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

5. By any public officer, trustee, or personal representative:

State of _____

County of _____

The foregoing instrument was acknowledged before me this (date) by (name and title of

position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number, if any)

33-507. Acknowledgments not affected by this article

A notarial act performed prior to the effective date of this article is not affected by this article. This article provides an additional method of proving notarial acts. Nothing in this article diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this state.

33-508. Uniformity of interpretation

This article shall be so interpreted as to make uniform the laws of those states which enact it.