Arkansas New Law

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Topics We Will Address Today

• New laws already and soon to become effective:
  • Acknowledgment certificates affecting real estate
  • Notary commissioning process
  • Scrivener’s Affidavit
  • Health care directives
  • Misconduct on referendum and ballot initiatives
Business Entity Acknowledgment

State of __________________________
County of __________________________

On this ______ day of _____________, 20___, before me, ______________________________, a Notary Public, (or before any officer within this State or without the State now qualified under existing law to take acknowledgments), duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named ___________________________ and ___________________________, (being the person or persons authorized by said corporation, [business trust, estate, partnership, limited liability company, association, joint venture, or other legal entity] to execute such instrument, stating their respective capacities in that behalf), to me personally well known (or satisfactorily proven to be such person), who stated that [he, she, or they] was [were] the _______[and ___________________________], of the __________________________, a corporation [business trust, estate, partnership, limited liability company, association, joint venture, or other legal entity], and was [were] duly authorized in [his, her, or their] respective capacity [capacities] to execute the foregoing instrument(s) for and in the name and behalf of said corporation [business trust, estate, partnership, limited liability company, association, joint venture or other legal entity], and further stated and acknowledged that [he, she, or they] had so signed, executed, and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this ______ day of __________________________, 20_____.

(Notary Public)
Completing Certificate

- Enter state and county
- Enter date of notarization
- Enter name of signer(s), title(s) and name of business entity
- Indicate type of business
- Add the date again in testimonium clause
State of Arkansas
County of Poinsett

On this 12th day of July 2013 before me, Notary’s Name, a Notary Public, (or before any officer within this State or without the State now qualified under existing law to take acknowledgments), duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Signer 1’s Name and Signer 2’s Name, (being the person or persons authorized by said corporation,[business, trust, estate, partnership, limited liability company, association, joint venture, or other legal entity] to execute such instrument, stating their respective capacities in that behalf), to me personally well known (or satisfactorily proven to be such person), who stated that [he, she, or they] was [were] the partners [and=-------------] of the Double R, a corporation,[business, trust, estate, partnership, limited liability company, association, joint venture, or other legal entity], and was [were] duly authorized in [his, her, or their] respective capacity[capacities] to execute the foregoing instrument[s] for and in the name and behalf of said corporation,[business, trust, estate, partnership, limited liability company, association, joint venture, or other legal entity], and further stated and acknowledged that [he, she, or they] had so signed, executed, and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 12th day of July 2013.

Notary’s Name
(Notary Public)
Individual Acknowledgment for Real Estate

State of __________
County of __________

On this _____ day of ____________, 20___, before me, a Notary Public, (or before any officer within this State or without the State now qualified under existing law to take acknowledgments,) appeared the within named ______________ [and __________], to me personally well known (or satisfactorily proven to be such person), who stated and acknowledged that [he, she or they] had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of ______________, 20___.

________________________________________
(Notary Public)
Attorney in Fact Acknowledgment

State of___________
County of___________

On this ____ day of___________, 20___, before me, _____________, the undersigned officer, personally appeared ________________, known to me (or satisfactorily proven) to be the person whose name is subscribed as attorney in fact for ________________, and acknowledged that he executed the same as the act of his principal for the consideration, uses, and purposes therein contained.

IN TESTIMONY WHEREOF I hereunto set my hand and official seal.

________________________________________
(Title of Officer)
Further Considerations

- Certificates need not have bracketed wording
- Ensure information there is correct before you sign and affix your seal
- County may be where Notary resides or where notarization occurs
Further Considerations

- Acknowledgment still valid:
  - Does not strictly comply with form
  - Gender listed does not match gender of person acknowledging
  - Does not identify the title of person
Scrivener’s Affidavit

- Corrects information in document affecting real property such as:
  - Identification, marital status, relation
  - Identification of business entity
  - Legal description of property
SCRIVENER’S ERROR AFFIDAVIT

KNOW ALL PERSONS BY THESE PRESENTS that:

[Name] prepared or completed the form of a [Type of instrument] _ with regard to a conveyance from [Name(s)] as [grantor, mortgagee, etc.] to [Name(s)] as [grantee, mortgagor, etc.]. The [Type of instrument] which was recorded in the records of County, Arkansas, on [Date] as Instrument Number [in Book at Page] contained a scrivener’s error with regard to the [reason for correction(s)].

The aforementioned [Type of instrument] should reflect that the [Type of instrument] read as follows: [Insert correction(s)]. Further affiant sayeth naught. WITNESS my hand and seal on this ___ day of __________, 20__ .

[Signature]
Name printed: ______________________

ACKNOWLEDGMENT

STATE OF)________________________}ss.
COUNTY OF)

On this ___ day of __________, 20__, before me, a Notary Public in and for the said county and state, personally appeared __________, to me well known, and acknowledged that [he/she] had executed the foregoing document for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

________________________________________
Notary Public

My Commission Expires: ____________________
SCRIVENER’S ERROR AFFIDAVIT

KNOW ALL PERSONS BY THESE PRESENTS that:

[Name] prepared or completed the form of a [Type of instrument] _ with regard to a conveyance from [Name(s)] as [grantor, mortgagor, etc.] to [Name(s)] as [grantee, mortgagee, etc.]. The [Type of instrument] which was recorded in the records of County, Arkansas, on [Date] as Instrument Number [in Book at Page] contained a scrivener’s error with regard to the [reason for correction(s)].

The aforementioned [Type of instrument] should reflect that the [Type of instrument] read as follows: [Insert correction(s)]. Further affiant sayeth naught. WITNESS my hand and seal on this ___ day of____________, 20___.

[Signature]
Name printed: __________________________
ACKNOWLEDGMENT

STATE OF} _________________________}ss.
COUNTY OF} _________________________}

On this _____ day of _________, 20___, before me, a Notary Public in and for the said county and state, personally appeared _________, to me well known, and acknowledged that [he/she] had executed the foregoing document for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

______________________________________________

Notary Public

My Commission Expires: __________________________
Scrivener’s Affidavit

- You must administer an oath or affirmation
- You may charge for two acts, $5 for oath and $5 for completing certificate
Health Care Directive

SIGNATURE

Your signature should either be witnessed by two competent adults or notarized. If witnessed, neither witness should be the person you appointed as your agent, and at least one of the witnesses should be someone who is not related to you or entitled to any part of your estate.

Signature: ___________________________ (Patient)  DATE: ___________________________

Witnesses:

1. I am a competent adult who is not named as the agent. I witnessed the patient's signature on this form.

Signature of witness number 1

2. I am a competent adult who is not named as the agent. I am not related to the patient by blood, marriage, or adoption and I would not be entitled to any portion of the patient's estate upon his or her death under any existing will or codicil or by operation of law. I witnessed the patient's signature on this form.

Signature of witness number 2

This document may be notarized instead of witnessed:

STATE OF ARKANSAS
COUNTY OF _______________________

I am a Notary Public in and for the State and County named above. The person who signed this instrument is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed as the "patient". The patient personally appeared before me and signed above or acknowledged the signature above as his or her own. I declare under penalty of perjury that the patient appears to be of sound mind and under no duress, fraud, or undue influence.

My commission expires: ___________________________  Signature of Notary Public

WHAT TO DO WITH THIS ADVANCE DIRECTIVE
Other New Law Changes

• Must state on application if you have been convicted of a felony
• Allows Secretary to require Notary applicants demonstrate they reviewed Notary law and Notary duties
• Notaries are authorized to take depositions
Other New Law Changes

• Notary changes residency, or nonresident changes employment, must file original or certified copy of original bond to new county of residence or employment

• Notaries use blue or black ink for stamp and signature
Other New Law Changes

• SOS may deny or revoke if Notary overcharges
• If Notary commission revoked, may reapply after 10 years from date of revocation
• Fraud in notarizing referendum or ballot initiative is a Class A misdemeanor
Connect with the NNA and other Notaries through our social media channels!

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linkedin.com/company/national-notary-association
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• 24 Hour Online Help at NationalNotary.org
• Educational resources
• Regular Updates with NNA Publications
• Toll Free Hotline Support
• Member Privileges and Partner Discounts
For further information, contact:

hotline@nationalnotary.org

888-876-0827

Hotline Counselors are available to assist you
Monday-Friday 5am-7pm and
Saturdays 5am-5pm (PT)

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