

**ARIZONA REVISED STATUTES**

**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 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.

## **TITLE 38. PUBLIC OFFICERS AND EMPLOYEES CHAPTER 3. CONDUCT OF OFFICE ARTICLE 1. FEES**

### **38-411. Record of fees; inspection of fee book**

Every officer entitled by law to charge fees for services shall keep a fee book and shall enter therein all fees charged for services rendered. The fee book shall at all times be subject to inspection by any person to ascertain the amount of fees therein charged.

### **38-412. Posting schedule of fees**

Recorders, clerks of the superior courts, sheriffs, justices of the peace, constables and notaries public shall keep posted at all times in a conspicuous place in their respective offices a complete list of the fees they are allowed to charge.

### **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.

### **38-414. Collection of fees; failure to report amount collected; classification**

A public officer who by law is required to make an abstract or statement of the amount of fees, compensation or percentage as earned or collected by him or his deputies, or as

having been returned to him by any other officer or person, or who is required by law to keep or preserve such abstract or statement or to file it in some designated place, who knowingly fails or refuses to make or file such abstract or statement as required by law, is guilty of a class 2 misdemeanor and shall be removed from office by judgment of the court.

**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. “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.
5. “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.
6. “Notarial act” or “notarization” means any act that a notary is authorized to perform under section 41-313 and that verifies only the identity of a signer of a document and not the truthfulness, accuracy or validity of the document.
7. “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 venue, date and facts that are attested by the Notary in a particular notarization.
8. “Notary public” or “notary” means any person commissioned to perform notarial acts under this article.
9. “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.
10. “Personal knowledge” 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.
11. “Satisfactory evidence of identity” means:
  - (a) Proof of identity is evidenced by one of the following:
    - (i) An unexpired driver license or nonoperating identification license that is issued by a state or territory of the United States.
    - (ii) An unexpired passport that is issued by the United States department of state.
    - (iii) An unexpired identification card that is issued by any branch of the United States armed forces.
    - (iv) An inmate identification card that is issued by the state department of corrections,

if the inmate is in the custody of the department.

(v) Any form of inmate identification that is issued by a county sheriff, if the inmate is in the custody of the county sheriff.

(vi) Any other unexpired identification card that is issued by the United States government or a state or tribal government, that contains the individual's photograph, signature and physical description and that contains the individual's height, weight, hair color of hair and eye color.

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

(viii) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to item (i), (ii), (iii), (iv), (v) or (vi) of this subdivision.

(ix) Personal knowledge of the individual by the notary.

(b) In addition to subdivision (a) of this paragraph, for the purposes of a real estate conveyance or financing that proof of identity may be evidenced by one of the following:

(i) A valid unexpired passport that is issued by the United States government.

(ii) A valid unexpired passport that is issued by a national government other than the United States government and that is accompanied by a valid unexpired visa or other documentation that is issued by the United States government and that is necessary to establish an individual's legal presence in the United States.

(iii) Any other valid unexpired identification that is deemed acceptable by the United States department of homeland security to establish an individual's legal presence in the United States and that is accompanied with supporting documents as required by the United States department of homeland security.

12. "Venue" means this state and the county where a notarial act occurs.

#### **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. On 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.
6. Be able to read and write English.

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. This 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.

H. The secretary of state may require that applicants and suspended notaries present proof of attendance at a notary training course before receiving their commissions or before reinstatement of a suspended commission. Any applicant who is required to attend a notary training course must complete the training within ninety days before renewing their commissions. The secretary of state may assess a fee prescribed by the secretary of state for administering notary training courses. The secretary of state shall deposit the fees collected in the notary education fund established by section 41-332.

#### **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 perform the notarial acts prescribed in subsection A of this section only if:

1. The signer is in the presence of the notary at the time of notarization.
2. The signer signs in a language that the notary understands.
3. The signer communicates directly with the notary in a language they both understand or indirectly through a translator who is physically present with the signer and

notary at the time of the notarization and who communicates directly with the signer and the notary in languages the translator understands.

4. The notarial certificate is worded and completed using only letters, characters and a language that are read, written and understood by the notary public.

C. If a notary attaches a notarial certificate to a document using a separate sheet of paper, the attachment must contain a description of the document that includes at a minimum the title or type of document, the document date, the number of pages of the document and any additional signers other than those named in the notarial certificate.

D. 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, the notarial commission number and the expiration date of the notarial commission.

3. Authenticate with the official seal all official acts 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 sixty 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 advertise or charge or receive a fee for performing a notarial act except as specifically authorized by rule.

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

A. A notary shall submit the notary's resignation in writing to the secretary of state.

B. 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 appointment to deposit such records, seal and papers, shall forfeit to the state not less than fifty nor more than five hundred dollars.

C. 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, stolen or compromised journal or seal; civil penalty**

A. Within thirty days after the change of a notary's mailing, business 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, theft or compromise 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, theft or compromise. 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 of this section, 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 before 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 to the notary by marriage or adoption.

C. Subject to section 41-320, a notary public shall not perform a notarization on a document if the notary is an officer of any named party, if the notary is a party to the document or if the notary will receive any direct material benefit from the transaction that is evidenced by the notarized document that exceeds in value the fees prescribed pursuant to section 41-316.

#### **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 is not an attorney may not render any service for compensation that constitutes the unauthorized practice of immigration and nationality law as defined in section 12-2701.

C. If a notary public violates subsection B of this section, in addition to any other penalty, the secretary of state shall impose a civil penalty of not more than one thousand dollars and permanently revoke the notary public's commission.

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

#### **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 an indefinite period of time.

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.

#### **41-332. Notary education fund**

The notary education fund is established consisting of monies deposited pursuant to section 41-312. The secretary of state shall administer the fund. Monies in the fund are subject to legislative appropriation.

#### **41-333. Impersonation of notary public**

Any person who knowingly acts as or otherwise intentionally impersonates a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of impersonating a public servant pursuant to section 13-2406.

### **ARTICLE 3 ELECTRONIC NOTARIZATION**

#### **41-351. Definitions**

In this article, unless the context otherwise requires, "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:

1. Unique to the person using it.

2. Capable of verification.
3. Under the sole control of the person using it.
4. Linked to the electronic document to which it relates in a manner so that if the document is changed the electronic signature is invalidated.

**41-352. Electronic notarization; rules**

- A. Notarial commissions, duties and acts as prescribed by this article may be performed electronically.
- B. A notary public may accept documents signed with an electronic signature.
- C. On or before December 31, 2019, the secretary of state shall adopt rules that establish standards for secure and feasible implementation of electronic notarization.

**41-353. Repealed.**

**41-354. Repealed.**

**41-355. Repealed.**

**41-356. Repealed.**

**41-357. Repealed.**

**41-358. Repealed.**

**41-359. Repealed.**

**41-360. Repealed.**

**41-361. Repealed.**

**41-362. Repealed.**

**41-363. Repealed.**

**41-364. Repealed.**

**41-365. Repealed.**

**41-366. Repealed.**

**41-367. Repealed.**

**41-368. Repealed.**

**41-369. Repealed.**

**41-370. Repealed.**

**ARTICLE 3 REMOTE ONLINE NOTARIZATION**

**41-371. Definitions**

In this article, unless the context otherwise requires:

1. “Communication technology” means an electronic device or process that allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound.
2. “Credential analysis” means a process or service that meets the standards established under section 41-372 through which a third person affirms the validity of an identification credential through review of public or private data sources.
3. “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
4. “Electronic record” means information that is created, generated, sent, communicated, received or stored by electronic means.
5. “Electronic seal” means an electronic image that contains information attached to or logically associated with an electronic record and that contains the words “notary public”, the name of the county in which the notary public is commissioned, the notary

public's name as it appears on the notarial commission, the commission number and the expiration date of the notarial commission.

6. "Electronic signature" has the same meaning prescribed in section 41-351.

7. "Foreign state" means a jurisdiction other than the United States, a state or a federally recognized Indian tribe.

8. "Identity proofing" means a process or service that meets the standards established under section 41-372 through which a third person affirms the identity of a remotely located individual by a review of personal information from public or private data sources.

9. "Notarial act" means an act that is performed by a notary public of this state pursuant to section 41-313, subsection A.

10. "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States.

11. "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

12. "Personal knowledge" has the same meaning prescribed in section 41-311.

13. "Remotely located individual" means an individual who is not in the physical presence of the notary public performing a remote online notarization.

14. "Remote online notarization" or "remote online notarial act" means a notarial act performed by means of communication technology.

15. "Remote presentation" means transmission to a notary public through communication technology of an image of a remotely located individual's identification credential that is of sufficient quality to enable the notary public to reasonably identify the remotely located individual and to perform credential analysis.

16. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

#### **41-372. Rules; standards**

A. On or before July 1, 2020, the secretary of state shall adopt rules to facilitate remote online notarizations. The rules shall include sufficient forms of notarial certificates for remote online notarizations and standards for applications and registration, communication technology, credential analysis, identity proofing and retention of the audio and visual recording created under section 41-374.

B. In adopting standards, the secretary of state may review and consider standards adopted by national standard-setting organizations.

#### **41-373. Authority to perform remote online notarizations**

A notary public who is physically located in this state and who is authorized to perform remote online notarizations by the secretary of state may perform a notarial act by means of communication technology for a remotely located individual who is physically located:

1. In this state.
2. Outside this state but not outside the United States.
3. Outside the United States if both of the following apply:

- (a) The electronic record is either:
  - (i) To be filed with or relates to a matter before a court, governmental entity, public official or other entity subject to the jurisdiction of the United States.
  - (ii) Involves property that is located in the territorial jurisdiction of the United States or a transaction substantially connected to the United States.
- (b) The notary public has no actual knowledge that the act of making the statement or signing the electronic record is prohibited by the foreign state in which the remotely located individual is located.

#### **41-374. Electronic record of remote online notarizations**

A. A notary public shall record each remote online notarial act performed by the notary public in chronological order in one or more journals maintained in a permanent, tamper-evident electronic format that complies with the rules adopted by the secretary of state. A notary public may not record a remote online notarial act in a paper journal required by section 41-319. Each journal entry under this subsection shall include:

1. The date and time of the notarial act.
2. A description of the record, if any, and type of notarial act.
3. The full name and address of each individual for whom the remote online notarial act is performed.
4. If the identity of the individual is based on personal knowledge, a statement to that effect.
5. If the identity of the individual is based on credential analysis and identity proofing, a brief description of the results of the identity verification process and the identification credential presented, including the date of issuance and expiration of the identification credential but not its serial or identification number.
6. If the identity of the individual is based on an oath or affirmation of a credible witness, the information required by paragraphs 3, 4 and 5 of this subsection with respect to the credible witness.
7. A fee, if any, charged by the notary public.

B. A notary public, or a person acting on behalf of the notary public, shall create an audio and visual recording of the performance of each remote online notarial act.

C. A notary public shall take reasonable steps to:

1. Ensure the integrity, security and authenticity of remote online notarizations.
2. Maintain a backup of the audio and visual recording required by subsection B of this section and an electronic journal kept by the notary public under subsection A of this section.
3. Protect the backup required by paragraph 2 of this subsection from unauthorized use.

D. A notary public or a guardian, conservator or agent of the notary public or a personal representative of a deceased notary public shall retain an electronic journal kept by the notary public pursuant to subsection A of this section and the audio and visual recording required by subsection B of this section or cause the journal and recording to be retained by a depository designated by or on behalf of the person required to retain the journal and recording. The journal and recording shall be retained for at least five years after the date of the remote online notarial act.

E. An electronic journal kept by the notary public pursuant to subsection A of this section and the audio and visual recording required by subsection B of this section are:

1. Subject to section 41-319 relating to public records.

2. Not subject to section 41-317.

**41-375. Use of electronic signature and electronic seal**

A. In performing a remote online notarization, a notary public shall attach or logically associate the notary public's electronic signature and electronic seal to the notarial certificate in a tamper-evident format. The electronic seal must be capable of being copied together with the electronic record to which it is attached or with which it is logically associated. The notarial certificate must be attached to or logically associated with the electronic record that is the subject of the remote online notarial act. If the secretary of state establishes standards under section 41-352 or 41-372 for attaching or logically associating the electronic signature, electronic seal or notarial certificate, the process must conform to the standards.

B. A notary public's use of an electronic seal satisfies the requirement of section 41-313, subsection D, paragraph 3 to authenticate the remote online notarial act.

C. A notary public shall take reasonable steps to protect the notary public's electronic seal from unauthorized use. A notary public may not allow another person to use the notary public's electronic seal.

D. A notary public shall immediately notify an appropriate law enforcement agency and the secretary of state on actual knowledge of the theft or vandalism of the notary public's electronic seal or electronic journal. A notary public shall immediately notify the secretary of state on actual knowledge of the loss or use by another person of the notary public's electronic seal or electronic journal.

E. A notary public's possession or use of an electronic seal for an electronic notarization under article 3 of this chapter or for a remote online notarization is not a violation of section 41-321, subsection B.

**41-376. Remote online notarization procedures**

A. Before performing a remote online notarization, a notary public shall:

1. Reasonably confirm that an electronic record before the notary public is the same electronic record in which the remotely located individual made a statement or on which the remotely located individual executed or adopted a signature.

2. Take reasonable steps to ensure that the communication technology used in the remote online notarization is secure from unauthorized interception.

B. In performing a remote online notarization for a remotely located individual, a notary public shall reasonably verify the identity of the individual by any of the following:

1. The notary public's personal knowledge of the individual.

2. Each of the following:

(a) The individual's remote presentation of an identification credential that constitutes satisfactory evidence of identity as defined in section 41-311.

(b) Credential analysis of the identification credential described in subdivision (a) of this paragraph.

(c) Identity proofing of the individual.

3. The oath or affirmation of a credible witness with personal knowledge of the individual who appears before and is identified by the notary public either:

(a) Through satisfactory evidence of identity as defined in section 41-311 while in the physical presence of the notary public.

(b) As a remotely located individual under paragraph 1 or 2 of this subsection.

C. A notary public may:

1. Require a remotely located individual to provide additional information necessary to assure the notary public of the identity of the individual.

2. Refuse to perform a remote online notarization if the notary public is not satisfied as to the identity of the remotely located individual.

D. Notwithstanding section 41-313, subsection B, paragraph 3, a translator may be a remotely located individual if the translator, signer and notary public communicate by means of communication technology.

E. Section 41-319, subsection C does not apply to remote online notarizations.

F. The notarial certificate for a remote online notarization must indicate that the notarial act was a remote online notarization performed by means of communication technology. A notarial certificate is sufficient to satisfy the requirement of this subsection if it either:

1. Complies with rules adopted under section 41-372.

2. Is in a form otherwise sufficient under the laws of this state and contains a statement substantially as follows: “This remote online notarization involved the use of communication technology”.

#### **41-377. Termination of notary public commission**

A. Except as provided in subsection B of this section, a notary public who is authorized to perform remote online notarizations and whose commission is terminated or revoked shall destroy the coding, disk, certificate, card, software or password that enables the notary public to attach or logically associate the notary public’s electronic signature and electronic seal to an electronic record and shall certify compliance with this subsection to the secretary of state. On the death or adjudication of incompetency of a notary public, the notary public’s personal representative or guardian shall comply with this subsection.

B. A former notary public whose commission terminated for a reason other than revocation or denial of renewal is not required to destroy the items described by subsection A of this section if the former notary public is recommissioned as a notary public within three months after the termination of the notary public’s former commission.

C. A notary public’s electronic seal is not subject to section 41-317, subsection B.

D. The termination of a notary public’s commission does not affect the retention requirements of section 41-374, subsection D.

#### **41-378. Legal recognition and validity of remote online notarizations**

A. A remote online notarization satisfies any law of this state that requires an individual to appear before, appear personally before or be in the presence of a notary public at the time of the performance of the notarial act.

B. A notary public’s verification of a remotely located individual’s identity pursuant to section 41-376, subsection B satisfies any law of this state that requires the notary public to obtain satisfactory evidence of identity of the individual for a remote online notarization.

C. The failure of a notary public to perform a duty or meet a requirement prescribed in this article does not invalidate a remote online notarial act performed by the notary public. A valid remote online notarial act does not prevent an aggrieved person from seeking to invalidate the electronic record or transaction that is the subject of the remote

online notarial act or from seeking other remedies based on state or federal law. This subsection does not validate a purported remote online notarial act that is performed by an individual who is not authorized to perform remote online notarial acts.

**41-379. Applicable law; conflict of laws**

A. The validity of a remote online notarization shall be determined by applying the laws of this state, regardless of the physical location of the remotely located individual at the time of the remote online notarization.

B. A notary public who is authorized to perform remote online notarizations is subject to and must comply with this chapter except as modified or supplemented by this article.

C. If a conflict between this article and any other law of this state exists, this article controls.

**41-380. Relation to electronic signatures in global and national commerce act**

This article modifies, limits and supersedes the electronic signatures in global and national commerce act (P.L. 106-229; 114 Stat. 464; 15 United States Code sections 7001 through 7031), but does not modify, limit or supersede 15 United States Code section 7001(c) or authorize electronic delivery of any of the notices described in 15 United States Code section 7003(b).

**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 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.

## **ARIZONA ADMINISTRATIVE CODE**

### **TITLE 2. ADMINISTRATION**

#### **CHAPTER 12. OFFICE OF THE SECRETARY OF STATE**

##### **ARTICLE 11. NOTARY PUBLIC BONDS AND FEES**

### **R2-12-1101. Definitions**

The following definitions shall apply in this Article unless the context otherwise requires:

“Acknowledgment” means the same as defined in A.R.S. § 41-311(1).

“Bond” means a surety bond to the state, with sureties approved by the clerk of the superior court in the county in which the individual is being commissioned as a notary public.

“Copy certification” means the same as defined in A.R.S. § 41-311(3).

“Credible person” means a person used to identify a signer when the signer does not have other satisfactory evidence of identity as specified in A.R.S. § 41-311(11).

“Jurat” means the same as defined in A.R.S. § 41-311(6).

“Oath” or “affirmation” means the same as defined in A.R.S. § 41-311(10).

“Satisfactory evidence of identity” means the same as defined in A.R.S. § 41-311(11).

Historical Note

New Section adopted by emergency rulemaking at 6A.A.R. 2956, effective July 18, 2000 (Supp. 00-3).  
Emergency rulemaking renewed at 7A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7A.A.R. 2141, effective May 1, 2001 (Supp. 01-2).

### **R2-12-1102. Notary Public Fees**

A. Pursuant to A.R.S. § 38-412, a notary public shall keep posted at all times in a conspicuous location, the fee schedule listed under subsection (E)(1) through (3).

B. Upon reviewing the fees schedule under subsection (E)(1) through (3), a notary shall select a standard fee, from “no charge” up to the maximum \$10 fee for a notarial act. A notary public shall be consistent when charging fees and post the fee schedule in a conspicuous location.

C. When posting fees under subsection (A) and (B), notaries shall use the template in Exhibit 1. Notary Public Services.

D. Before performing any notarial act, the notary public shall inform the requestor of

the service fee if one will be charged.

E. A Notary public may charge the following fee:

1. For an acknowledgment or jurat, “no charge” up to \$10 per notary public signature;
2. For a copy certification, “no charge” up to \$10 per page certified;
3. For an oath or affirmation without a signature, “no charge” up to \$10 per notarial act.

Exhibit1. Notary Public Services  
**NOTARY PUBLIC SERVICES**

(Business, Office, or Notary Name)

Fees Schedule Posted pursuant to R2-12-1102		
acknowledgment or jurat	[Example Fee] No Charge	per notary public signature
copy certification	[Example Fee] No Charge	per page certified
oath or affirmation	[Example Fee] No Charge	per notarial act
<b><i>Attention Customer: Fees charged by an Arizona Notary Public may vary from “no charge” up to \$10.</i></b>		

**An Arizona Notary Public May Charge the Following Fees**

Posted pursuant to A.R.S. § 38-412		
acknowledgment or jurat	up to \$10	per notary public signature
copy certification	up to \$10	per page certified
oath or affirmation	up to \$10	per notarial act

**Historical Note**

New Section adopted by emergency rulemaking at 6A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7A.A.R. 2141, effective May 1, 2001 (Supp. 01-2). Amended by final rulemaking at 24A.A.R. 137, effective March 5, 2018.

**R2-12-1103. Notary Public Bonds**

A. Notaries public shall purchase a bond in the amount of \$5,000 before being commissioned as a notary public. The original bond shall be filed with the clerk of the superior court in the applicant’s county of residence. A copy of the bond shall be filed with the applicant’s application form submitted to the Secretary of State’s Office.

B. The bond shall contain, on its face, the oath of office for the notary public as specified in A.R.S. § 38-233(B). This oath shall be as specified in A.R.S. § 38-231. The notary shall endorse the oath on the face of the bond, immediately below the oath, by signing the notary’s name under which the person has applied to be commissioned as a notary and exactly as the name appears on the notary application form filed with the Secretary of State’s Office.

**Historical Note**

New Section adopted by emergency rulemaking at 6A.A.R. 2956, effective July 18, 2000 (Supp. 00-3).

## **ARTICLE 12. ELECTRONIC NOTARY**

### **R2-12-1201. Definitions**

The following definitions shall apply to this Article unless context otherwise requires:

1. "Apostille" means a certificate that authenticates the seals and signatures of officials on public documents issued by public authorities for use in foreign countries that are members of the 1961 Hague Convention Treaty.

2. "Certificate Authority" means an entity that issues digital certificates for use in performing electronic notarizations.

3. "Commission" means the same as defined in A.R.S. § 41-311(2).

4. "Electronic" means the same as defined in A.R.S. § 41-371(3).

5. "Electronic notarization" or "electronic notarial act" means a notarial act performed with respect to an electronic record in accordance

with this Article while the signer is in the physical presence of the notary public.

6. "Electronic notary public" means a notary public authorized to perform electronic notarial acts.

7. "Electronic record" means the same as defined in A.R.S. § 41-371(4).

8. "Electronic seal" means the same as defined in A.R.S. § 41-371(5).

9. "Electronic signature" means the same as defined in A.R.S. § 41-351.

10. "Non-repudiation" means the signer of an electronic document shall not deny their electronic signature without factual basis.

11. "Notarial act" means the same as defined in A.R.S. § 41-371(9).

12. "Notary public" or "notary" means the same as defined in A.R.S. § 41-311(8).

13. "Person" means the same as defined in A.R.S. § 41-371(11).

14. "Qualified Certificate Authority" means a trusted entity that issues digital certificates in compliance with the requirements of R2-12-1204.

15. "Tamper-evident technology" means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform notarial acts with respect to electronic records and to display evidence of any changes made to an electronic record.

### **R2-12-1202. Authority to Perform Electronic Notarization**

A notary public of this state may perform electronic notarizations during the term of the notary public's commission if:

1. The notary public has received written authorization from the Secretary of State to perform either:

a. Electronic notarizations under this Article; or

b. Remote online notarizations; and

2. The Secretary of State has not terminated or revoked such authorization.

### **R2-12-1203. Registration**

A. To receive authorization from the Secretary of State to perform electronic notarizations a notary public must submit an application in a format prescribed by the Secretary of State that provides the following information about the applicant:

1. The applicant's full legal name and the name under which the applicant is commissioned as a notary public (if different);

2. The applicant's email address;
3. A description of the technologies or devices that the applicant intends to use to perform electronic notarizations;
4. The name, address, and website URL of any vendors or other persons that will directly supply to the applicant the technologies that the applicant intends to use;
5. A statement certifying that the applicant has obtained a digital certificate from a qualified certificate authority to be used by the applicant in performing electronic notarizations; and
6. A statement certifying that the technologies described in the application comply with the requirements of this Article.

B. The application must be submitted to the Secretary of State as provided by information posted on the Secretary of State's website at <https://azsos.gov/>.

C. If, during the term of a notary public's commission, the notary public intends to use the technologies of another vendor or person than those identified under subsection (A)(3) and (4), then an additional application or amendment identifying such other vendors or other persons must be submitted to the Secretary of State as provided in this section.

D. If the technology identified in the application under subsection (A) conforms to the standards adopted under this Article and the applicant satisfies the requirements of this section, the Secretary of State shall approve the use of the technology and issue to the notary public written authorization to perform electronic notarizations.

E. The Secretary of State may reject the application, or terminate or revoke a prior authorization given under this section, for the following reasons:

1. The applicant's failure to comply with A.R.S. §§ 41-311 through 41-351 or this Article;
2. Any information required under subsection (A) is missing, inaccurate, or incomplete; or
3. The technology identified in the application does not conform to the standards adopted under this Article.

F. The Secretary of State shall notify the notary public of approval or rejection of the application within forty-five (45) days after receipt. If the application is rejected, the Secretary of State shall state the reasons for the rejection.

G. Rejection of an application, or termination or revocation of a prior authorization to perform electronic notarizations may be appealed pursuant to A.R.S. §§ 41-1092.03 and 41-1092.06.

H. The term of the commission for electronic notarization shall be the same as the term of the notary's existing notary commission.

I. The renewal of the commission of a notary public who has previously received authorization to perform electronic notarizations does not constitute renewal of such authorization to perform electronic notarizations. Applicant shall submit another application as provided under subsection (A) and must receive authorization from the Secretary of State in order to continue to perform electronic notarizations.

J. Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using hardware and/or software updates to the technologies that the notary public identified under subsection (A) if the hardware and/or software update does not result in technologies that are materially different from the technologies that the notary public identified previously.

#### **R2-12-1204. Tamper Evident Technology**

A. A notary public shall select one or more tamper-evident technologies to perform electronic notarizations. The tamper-evident technology shall consist of a digital certificate complying with the X.509 standard adopted by the International Telecommunication Union or a similar industry-standard technology.

B. In performance of an electronic notarization, a notary public shall attach or logically associate the notary public's electronic signature and electronic seal to an electronic record that is the subject of a notarial act by use of the digital certificate.

C. A notary public may not perform an electronic notarization if the digital certificate:

1. Has expired;
2. Has been revoked or terminated by the issuing or registering authority;
3. Is invalid; or
4. Is incapable of authentication.

D. Renewal of the notary's digital certificate is separate from the registration process with the Secretary of State and shall be obtained from a qualified certificate authority capable of supplying certificates that comply with this section. Renewal of the certificate with the certificate authority is the responsibility of the notary.

#### **R2-12-1205. Electronic Seal Requirements**

A. A notary public shall use the same unique electronic seal for all electronic notarizations performed during an applicable commission period.

B. An electronic seal shall substantially conform to the following design: a rectangular or circular seal with the notary public's name as it appears on the commission, the great seal of the State of Arizona, the words "Notary Public," "State of Arizona," and "My commission expires on (date)," the name of the county in which the notary public is commissioned, and the commission number.

C. When affixed to an electronic record, an electronic seal shall be clear, legible, and photographically reproducible. An electronic seal is not required to be within a minimum or maximum size when photographically reproduced on an electronic record.

#### **R2-12-1206. Security of Electronic Signatures and Electronic Seals**

A. A notary public's electronic signature and electronic seal shall remain within the exclusive control of the notary public, including control by means of use of a password or other secure method of authentication. A notary public shall not disclose any access information used to affix the notary public's electronic signature or electronic seal to electronic records, except:

1. When requested by the Secretary of State or a law enforcement officer;
2. When required by court order or subpoena; or
3. Pursuant to an agreement to facilitate electronic notarizations with a vendor or other technology provider identified in an application submitted under this Article.

B. A notary public may not allow any other individual to use his or her electronic signature or electronic seal to perform a notarial act.

C. Upon resignation, revocation, or expiration of the notary public's commission, the notary public's electronic seal (including any coding, disk, digital certificate, card, software, or password that enables the notary public to attach or logically associate the electronic seal to an electronic record) shall be destroyed or disabled to prohibit its use by any other person.

D. A notary public shall immediately notify an appropriate law enforcement agency

and the Secretary of State on actual knowledge of the theft or vandalism of the notary public's electronic signature, electronic seal, or digital certificate. A notary public shall immediately notify the Secretary of State on actual knowledge of the unauthorized use by another person of the notary public's electronic signature, electronic seal, or digital certificate.

#### **R2-12-1207. Journal**

An electronic notary public shall keep a journal of all electronic notarial acts in bound paper form with the same form as required in A.R.S. § 41-319 and shall be under the sole control of the electronic notary public.

#### **R2-12-1208. Requirements for Authenticating the Notarial Act**

Electronic notarial acts need to fulfill certain basic requirements to ensure non-repudiation and the capability of being authenticated by the Secretary of State for purposes of issuing Apostilles and Certificates of Authentication. They are as follows:

1. The fact of the notarial act, including the notary's identity, signature, and commission status, must be verifiable by the Secretary of State, and
2. The notarized electronic document will be rendered ineligible for authentication by the Secretary of State if it is improperly modified after the time of notarization, including any unauthorized alterations to the document content, the electronic notarial certificate, the notary public's electronic signature, and/or the notary public's official electronic seal.

### **ARTICLE 13. REMOTE ONLINE NOTARIZATION**

#### **R2-12-1301. Definitions**

The following definitions shall apply to this Article unless context otherwise requires:

1. "Commission" means the same as defined in A.R.S. § 41-311(2).
2. "Communication technology" means the same as defined in A.R.S. § 41-371(1).
3. "Credential analysis" means the same as defined in A.R.S. § 41-371(2).
4. "Dynamic knowledge-based authentication assessment" means an identity assessment of an individual that is based on a set of questions formulated from public or private data sources for which the individual has not provided a prior answer.
5. "Electronic" means the same as defined in A.R.S. § 41-371(3).
6. "Electronic notarization" or "electronic notarial acts" means a notarial act performed with respect to an electronic record in accordance with Article 12.
7. "Electronic record" means the same as defined in A.R.S. § 41-371(4).
8. "Electronic seal" means the same as defined in A.R.S. § 41-371(5).
9. "Identification credential" means an identification card or document that constitutes "satisfactory evidence of identity" as defined in A.R.S. § 41-311(11).
10. "Identity proofing" means the same as defined in A.R.S. § 41-371(8).
11. "Multi-factor authentication" means a security system that requires more than one method of authentication from independent categories of credentials to verify the user's identity for a login or other transaction.
12. "Notarial act" means the same as defined in A.R.S. § 41-371(9).
13. "Person" means the same as defined in A.R.S. § 41-371(11).
14. "Personal knowledge" means the same as defined in A.R.S. § 41-371(12).
15. "Remotely located individual" means the same as defined in A.R.S. § 41-371(13).
16. "Remote online notarization" or "remote online notarial act" means the same as

defined in A.R.S. § 41-371(14).

17. “Remote presentation” means the same as defined in A.R.S. § 41-371(15).

### **R2-12-1302. Authority to Perform Remote Online Notarization**

A. A notary public of this state may perform remote online notarizations during the term of the notary public’s commission if:

1. The notary public has received written authorization from the Secretary of State to perform remote online notarizations under this Article; and

2. The Secretary of State has not terminated or revoked such authorization.

B. A notary public who is authorized to perform remote online notarizations under subsection (A) may also perform electronic notarizations under Article 12.

### **R2-12-1303. Use of Electronic Notarization**

In performing a remote online notarization, a notary public must comply with the requirements for electronic notarization as provided in Article 12.

### **R2-12-1304. Registration**

A. To receive authorization from the Secretary of State to perform remote online notarizations a notary public must submit an application in a format prescribed by the Secretary of State that provides the following information about the applicant:

1. The applicant’s full legal name and the name under which the applicant is commissioned as a notary public (if different);

2. The applicant’s email address;

3. A description of the technologies or devices that the applicant intends to use to perform remote online notarizations;

4. The name, address, and website URL of any vendors or other persons that will directly supply to the applicant the technologies that the applicant intends to use;

5. A statement certifying that the technologies described in the application comply with the requirements of this Article; and

6. A disclosure of any professional license or commission revocations or other professional disciplinary actions taken under the laws of any state against the applicant.

B. The application must be submitted to the Secretary of State as provided by information posted on the Secretary of State's website at <https://azsos.gov/>.

C. If, during the term of a notary public’s commission, the notary public intends to use the technologies of another vendor or person than those identified under subsection (A)(3) and (4), then an additional application or amendment identifying such other vendors or other persons must be submitted to the Secretary of State as provided in this section.

D. If the technology identified in the application under subsection (A) conforms to the standards adopted under this Article and the applicant satisfies the requirements of this section, the Secretary of State shall approve the use of the technology and issue to the notary public written authorization to perform electronic notarizations.

E. The Secretary of State may reject the application, or terminate or revoke a prior authorization given under this section, for the following reasons:

1. The applicant’s failure to comply with A.R.S. §§ 41-311 through 41-380 or this Article;

2. Any information required under subsection (A) is missing, inaccurate, or incomplete; or

3. The technology identified in the application does not conform to the standards adopted under this Article.

F. The Secretary of State shall notify the notary public of approval or rejection of the application within forty-five (45) days after receipt. If the application is rejected, the Secretary of State shall state the reasons for the rejection.

G. Rejection of an application, or termination or revocation of a prior authorization to perform electronic notarizations may be appealed pursuant to A.R.S. §§ 41-1092.03 and 41-1092.06.

H. The term of the commission to perform remote online notarization shall be the same as the term of the notary's existing notary commission.

I. The renewal of the commission of a notary public who has previously received authorization to perform remote online notarizations does not constitute renewal of such authorization. Applicant shall submit another application as provided under subsection (A) and must receive authorization from the Secretary of State in order to continue to perform remote online notarizations.

J. Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using hardware and/or software updates to the technologies that the notary public identified under subsection (A) if the hardware and/or software update does not result in technologies that are materially different from the technologies that the notary public identified previously.

#### **R2-12-1305. Standards for Identity Verification**

A. If a notary public does not have satisfactory evidence of the identity of a remotely located individual under subsection (D), the notary public must reasonably verify the individual's identity through a multi-factor authentication procedure as provided in this section and in subsections (B) and (C). The procedure must analyze the individual's identification credential that is the subject of remote presentation against trusted third-person data sources, bind the individual's identity to the individual following successful dynamic knowledge-based authentication assessment, and permit the notary public to visually compare the identification credential and the individual. Credential analysis and identity proofing must be performed by a reputable third party who has provided evidence to the notary public of the ability to satisfy the requirements of this Article.

B. Credential analysis must use public or private data sources to confirm the validity of the identification credential that is the subject of remote presentation by a remotely located individual and shall, at a minimum:

1. Use automated software processes to aid the notary public in verifying the identity of each remotely located individual;

2. Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;

3. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and

4. Enable the notary public to visually compare for consistency the information and photograph on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

C. Identity proofing must be performed by means of a dynamic knowledge-based

authentication assessment. The assessment is successful if it meets the following requirements:

1. The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;
2. Each question must have a minimum of five possible answer choices;
3. At least 80% of the questions must be answered correctly;
4. All questions must be answered within two minutes;
5. If the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;
6. During a retake of the quiz, a minimum of 40% of the prior questions must be replaced;
7. If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same online notary public within 24 hours of the second failed attempt; and

8. The notary public must not be able to see or record the questions or answers.  
D. A notary public has satisfactory evidence of the identity of a remotely located individual if:

1. The notary public has personal knowledge of the identity of the individual; or
2. The individual is identified by oath or affirmation of a credible witness in accordance with the following requirements:
  - a. To be a credible witness, the witness must have personal knowledge of the remotely located individual.
  - b. The notary public must have personal knowledge of the credible witness or verify the identity of the credible witness by multi-factor authentication in accordance with subsections (A), (B) and (C).
  - c. A credible witness may be outside the physical presence of the notary public or remotely located individual if the notary public, credible witness, and remotely located individual can communicate by using communication technology.

#### **R2-12-1306. Standards for Communication Technology**

A. Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other. The process must provide a means for the notary public reasonably to confirm that an electronic record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

B. Communication technology must provide reasonable security measures to prevent unauthorized access to:

1. The live transmission of the audio-visual feeds;
2. The methods used to perform identity verification; and
3. The electronic record that is the subject of the remote online notarization.

C. If a remotely located individual must exit the workflow prior to completion of the identity verification process, the individual must restart the identity verification process from the beginning.

#### **R2-12-1307. Certificate of Notarial Act for Remote Online Notarization**

A. A form of notarial certificate for a remote online notarization satisfies the

requirement of A.R.S. § 41-376(F) if it is in the form provided by applicable law and contains a statement substantially as follows: “This remote online notarization involved the use of communication technology.”

B. A short form of acknowledgment prescribed in A.R.S. § 33-506 or other form of notarial certificate required by law satisfies the requirement of A.R.S. § 41-376(F) if it is in substantially one of the following forms for the purposes indicated:

1. For an acknowledgment in an individual capacity:

State of Arizona

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of communication technology on (date) by (name(s) of individual(s)).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

2. For an acknowledgment in a representative capacity:

State of Arizona

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of communication technology on (date) by (name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom the instrument was executed).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

3. For a verification on oath or affirmation:

State of Arizona

County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me by means of communication technology on (date) by (name(s) of individual(s) making statement).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

4. Certificate of acknowledgement for a corporation:

State of Arizona

County of \_\_\_\_\_

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

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

5. Certificate of acknowledgement for a partnership:

State of Arizona

County of \_\_\_\_\_

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

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

6. Certificate of acknowledgement for an individual acting as principal by an attorney in fact:

State of Arizona

County of \_\_\_\_\_

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

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

7. Certificate of acknowledgement by any public officer, trustee, or personal representative:

State of Arizona

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name and title of position).

(Signature of notary public)

Notary Public

(Electronic seal)

(My commission expires: \_\_\_\_\_)

**R2-12-1308. Record Retention and Depositories**

A. A notary public must retain the electronic journal required and any audio-visual recording created under A.R.S. § 41-374 in a computer or other electronic storage device that protects the journal and recording against unauthorized access by password or cryptographic process. The recording must be created in an industry-standard, audio-visual file format and must not include images of any electronic record that was the subject of the remote online notarization.

B. An electronic journal must be retained for at least five (5) years after the last remote online notarial act chronicled in the journal. An audio-visual recording must be retained for at least five (5) years after the recording is made.

C. A notary public must take reasonable steps to ensure that a backup of the electronic journal and audio-visual recording exists and is secure from unauthorized use.

D. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in

possession of an electronic journal or audio-visual recording must:

1. Comply with the retention requirements of this section;
2. Transmit the journal and recording to one or more depositories under subsection (E); or
3. Transmit the journal and recording in an industry-standard readable data storage device to the Secretary of State at: Secretary of State, Attn: Notary Department, 1700 W. Washington Street, Floor 7, Phoenix, AZ 85007-2808.

E. A notary public, guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third person to act as a depository to provide the storage required by this section. A third person under contract under this section shall be deemed a depository under A.R.S. § 41-375. The contract must:

1. Enable the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of this section even if the contract is terminated; or
2. Provide that the information will be transferred to the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public if the contract is terminated.