

NOTARY PUBLIC HANDBOOK



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Dear Californian:

Welcome to the official source of laws relating to notaries public in California. You have demonstrated an interest in becoming part of a growing profession of more than 236,000 public officials who perform invaluable services to the legal, business, financial, and real estate communities.

This *Notary Public Handbook* has been designed for you to prepare for the notary public examination and to use as a ready reference to assist you in the performance of your duties as a notary public. The 2005 edition contains the amendments to Government Code section 8201, which change the effective date for the new mandatory notary education requirement, and includes the new addition of Section 8202 to the Government Code, which specifies that a notary must certify to the identity of a person when performing a jurat and provides the new jurat form that must be used for this purpose.

In order to qualify to become a notary public, the Secretary of State must determine the fitness of a person to exercise the functions of the office of notary public, including satisfactorily completing a written examination prescribed by the Secretary of State and passing a background check. Legislation enacted in 2004 also required a person who is appointed on or after January 1, 2005, to satisfactorily complete a course of study approved by the Secretary of State concerning the functions and duties of a notary public, prior to being appointed as a notary public.

New legislation effective January 1, 2005, changes the effective date for mandatory notary education. Thus, any person who is appointed as a notary public on or after **July 1, 2005** must complete an approved course of study prior to being appointed as a notary public. Please refer to the "General Information" portion of the handbook for more information regarding this new requirement.

A copy of this handbook, as well as additional information regarding the qualifications and procedures you must follow to become a notary public, are available on the Secretary of State's website at www.ss.ca.gov/business/notary/notary.htm.

On behalf of the people of California, thank you for your interest in performing an important public service as a notary public.

Sincerely,

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APPOINTMENT AND QUALIFICATIONS

In order to qualify to become a notary public you must meet all of the following requirements: (Government Code section 8201)

1. Be a resident of the State of California;
2. Be at least 18 years of age;
3. Satisfactorily complete a course of study approved by the Secretary of State for appointments made on or after July 1, 2005;
4. Pass a written examination prescribed by the Secretary of State;
5. Be able to read, write, and understand English; and
6. Pass a background check.

To determine if a person meets the requirements to fulfill the responsibilities of the position, a completed application shall be submitted at the examination site, then forwarded to the Office of the Secretary of State and reviewed by Secretary of State staff for qualifying information.

To assist the Secretary of State in determining the identity of an applicant and whether the applicant has been convicted of a disqualifying crime, state law requires all applicants to be fingerprinted as part of a thorough background check **prior** to being granted an appointment as a notary public. (Government Code section 8201.1) Information concerning the fingerprinting requirements will be mailed to candidates who pass the examination. Commissioned notaries seeking reappointment with less than a six-month break in service are not required to have their fingerprints retaken. Those applicants who have held a notary public commission in the past, but have had a break in their commission of more than six months, are required to have their fingerprints submitted via live scan.

Convictions

Applicants are required to disclose **all** arrests and convictions on their applications, including convictions dismissed under Penal Code section 1203.4 or 1203.4a. If you have any questions concerning the disclosure of convictions or arrests, contact the Secretary of State prior to signing the application. If you do not recall the specifics about your arrest(s) and/or conviction(s), you can contact the **California Department of Justice** at (916) 227-3849.

The Secretary of State will recommend denial of an application for the following reasons: (Government Code section 8214.1 and the *Notary Public Disciplinary Guidelines (2001)*)

- Failure to disclose any conviction;
- Conviction of a felony; or
- Conviction of a disqualifying misdemeanor where not more than 10 years have passed since the completion of probation.

When a recommendation is made to deny an application, the applicant has the right to appeal the recommendation through the administrative hearing process. (Government Code section 8214.3)

Please refer to the Secretary of State's *Notary Public Disciplinary Guidelines (2001)*, for a list of the most common disqualifying convictions. The disciplinary guidelines are available on the Secretary of State's website or can be mailed to you upon request. Please refer to the inside front cover of this handbook for our website and mailing addresses.

Notary Public Education (Effective July 1, 2005)

All persons appointed on or after July 1, 2005, will be required to take and satisfactorily complete a six-hour course of study approved by the Secretary of State prior to appointment as a notary public. Please note that all persons being appointed, no matter how many

commission terms that person has held in the past, will be required to take the initial six-hour course of study. (Government Code section 8201(a)(3) and (b)) In addition, the Secretary of State will review and approve any course of study that includes all material that a person is expected to know to satisfactorily complete the written examination. The Secretary of State will compile a list of all persons offering an approved course of study and will provide this list with the *Notary Public Handbook*. (Government Code section 8201.2)

REQUIREMENTS AND TIME LIMIT FOR QUALIFYING

Once the commission has been issued, a person has 30 calendar days to take, subscribe, and file an oath of office and file a \$15,000 surety bond with the **county clerk's office**. The commission does not take effect until the oath and bond are filed with the county clerk's office. The filing must take place in the county where the notary public maintains a principal place of business as shown in the application on file with the Secretary of State. If the oath and bond are not filed within the 30-calendar-day time period, the commission will not be valid, and the person commissioned may not act as a notary public until a new appointment is obtained and the person has properly qualified within the 30-calendar-day time limit. Government Code section 8213(a) permits the mailing of completed oaths and bonds to the applicable county clerk for filing of the initial oath and bond. It should be noted that **exceptions** to the 30-day filing requirement **are not made** due to mail service or county clerk mail processing delays or for any other reason. If mailing an oath and bond to the county clerk, sufficient time must be allowed by the newly appointed notary public to ensure timely filing. (Government Code sections 8212 and 8213)

NOTARY PUBLIC BONDS

In order to provide some protection to the public, California law requires every notary public to file an official bond. It is important to note that the notary public bond is not an insurance policy for the notary public. It is designed only to provide a limited fund for paying claims against the notary public. The notary public remains personally liable to the full extent of the damage sustained and may be required to reimburse the bonding company for sums paid by the company because of misconduct or negligence of the notary public. (Government Code sections 8212 to 8214)

GEOGRAPHIC JURISDICTION

A notary public can provide notarial services throughout the State of California. A notary public is not limited to providing services only in the county where the oath and bond are on file. In virtually all of the certificates the notary public is called on to complete, there will be a venue heading such as "State of California, County of _____." The county named in the heading is the county where the signer personally appeared before the notary public and acknowledged signing the document. (Government Code section 8200)

ACTS CONSTITUTING THE PRACTICE OF LAW

(Inserted at the request of The State Bar of California)

California notaries are prohibited from performing any duties which may be construed as the unlawful practice of law. Among the acts which constitute the practice of law are the preparation, drafting, or selection or determination of the kind of any legal document, or giving advice with relation to any legal documents or matters. If asked to perform such tasks, a California notary public should decline and refer the requester to an attorney.

NOTARY PUBLIC SEAL

Each notary public is required to have and to use a seal. The seal must be kept in a locked and secured area, under the direct and exclusive control of the notary public and must not be surrendered to an employer upon termination of employment, whether or not the employer paid for the seal, or to any other person.

Because of the legal requirement that the seal be photographically reproducible, the rubber stamp seal has become all but universal; however, notaries may also use an embosser seal in addition to the rubber stamp. The legal requirements for a seal are shown below. (Government Code section 8207)

1. It is photographically reproducible when it is affixed to a document.
2. It contains the State Seal and the words "Notary Public."
3. It contains the name of the notary public as shown on the commission.
4. It contains the name of the county where the oath of office and notary public bond are on file.
5. It contains the expiration date of the notary public commission.
6. It contains the sequential identification number assigned to the notary public as well as the identification number assigned to the manufacturer or vendor for every seal or stamp manufactured on or after January 1, 1992.
7. It may be circular not over two inches in diameter, or may be a rectangular form of not more than one inch in width by two and one-half inches in length, with a serrated or milled edged border.

Many documents that are acknowledged may later be recorded. A document may not be accepted by the recorder if the notary public seal is illegible. Notaries are cautioned to take care that the notary public stamp leaves a clear impression. All the elements must be easily discernible. The seal should not be placed over signatures or any printed matter on the document. An illegible or improperly placed seal may result in rejection of the document for recordation and result in inconveniences and extra expenses for all those involved.

The law allows a condition under which a notary public may authenticate an official act without using an official notary public seal. Because subdivision maps are usually drawn on a material that will not accept standard stamp pad ink and other acceptable inks are not as readily available, acknowledgments for California subdivision map certificates may be notarized without the official seal. The notary public's name, the county of the notary public's principal place of business, and the commission expiration date must be typed or printed below or immediately adjacent to the notary public's signature on the acknowledgment. (Government Code section 66436(c))

A NOTARY PUBLIC SHALL NOT USE THE OFFICIAL SEAL OR THE TITLE NOTARY PUBLIC FOR ANY PURPOSE OTHER THAN THE RENDERING OF NOTARIAL SERVICE. (Government Code section 8207)

When the notary public commission is no longer valid, the notary public seal must be destroyed to protect the notary public from possible fraudulent use by another. (Government Code section 8207)

NOTARY PUBLIC RECORDS

A notary public is required to keep one active sequential journal at a time of all acts performed as a notary public. The journal must be kept in a locked and secured area (such as a lock box or locked desk drawer), under the direct and exclusive control of the notary public. The journal shall include the items shown below. (Government Code section 8206(a))

1. Date, time and type of each official act (e.g. acknowledgment, jurat).
2. Character of every instrument sworn to, affirmed, acknowledged or proved before the notary public (e.g. deed of trust).
3. The signature of each person whose signature is being notarized.
4. A statement as to whether the identity of a person making an acknowledgment or taking an oath or affirmation was based on personal knowledge or satisfactory evidence. If identity was established by satisfactory evidence pursuant to Civil Code section 1185, then the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document (e.g. driver's license, [State] Department of Motor Vehicles, #X00000, 00/00/00).
5. If the identity of the person making the acknowledgment or taking the oath or affirmation was established by the oaths or affirmations of two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the type of identifying documents, the identifying numbers of the documents and the dates of issuance or expiration of the documents presented by the witnesses to establish their identity (e.g. driver's license, [State] Department of Motor Vehicles, #X00000, 00/00/00).
6. The fee charged for the notarial service.
7. If the document to be notarized is a deed, quitclaim deed, or deed of trust affecting real property, the notary public shall require the party signing the document to place his or her right thumbprint in the journal. If the right thumbprint is not available, then the notary public shall have the party use his or her left thumb, or any available finger and shall so indicate in the journal. If the party signing the document is physically unable to provide a thumb or fingerprint, the notary public shall so indicate in the journal and shall also provide an explanation of that physical condition.

If the sequential journal is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable, the notary public must immediately notify the **Secretary of State** by certified or registered mail. The notification must include the periods of journal entries, the notary public commission number, the commission expiration date, and, when applicable, a photocopy of the police report that lists the journal. (Government Code section 8206(b))

A notary public must provide a photo static copy of a line item from his or her journal when provided with a written request from any member of the public. The written request shall include the name of the parties, the type of document, and the month and year in which the document was notarized. The cost must not exceed thirty cents (\$0.30) per page. (Government Code section 8206(c))

The sequential journal is the exclusive property of the notary public and shall not be surrendered to an employer upon termination of employment, whether or not the employer paid for the journal, or at any other time. The circumstances in which the notary public must relinquish the journal or permit inspection and copying of journal transactions and the procedures the notary public must follow are specified in Government Code section 8206(d).

Within 30 days from the date the notary public commission is no longer valid, the notary public must deliver all notarial records and papers to the **county clerk's office** where the oath is on file. If the notary public willfully fails or refuses to do so, the notary public is guilty of a misdemeanor, and shall be personally liable for damages to any person injured by that action or inaction. (Government Code section 8209) Any notarial records and papers delivered to the Secretary of State will be returned to the sender.

ACKNOWLEDGMENT

The form most frequently completed by the notary public is the acknowledgment. The acknowledgment form is set forth in Civil Code section 1189. In the acknowledgment, the notary public certifies:

1. That the signer **personally appeared** before the notary public on the date indicated in the county indicated.
2. To the identity of the signer.
3. That the signer acknowledged executing the document.

The notary public sequential journal *must* contain a statement as to whether the identity of a person making the acknowledgment or taking the oath or affirmation was based on personal knowledge or satisfactory evidence. If identity was established based on satisfactory evidence, then the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document used to establish the person's identity, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document. If the identity of the person making the acknowledgment or taking the oath or affirmation was established by the oaths or affirmations of two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, then the journal shall contain the type of identifying documents, the identifying numbers of the documents and the dates of issuance or expiration of the documents presented by the witnesses to establish their identity.

The certificate of acknowledgment must be completely filled out at the time the notary public's signature and seal are affixed.

The completion of an acknowledgment that contains statements that the notary public knows to be false not only may cause the notary public to be liable for civil penalties and administrative action, but is also a criminal offense.

A notary public may complete an acknowledgment form required in another state or jurisdiction of the United States on documents to be filed in that other state or jurisdiction, provided the form does not require the notary public to determine or certify that the signer holds a particular representative capacity or to make other determinations and certifications not allowed by California law.

Any certificate of acknowledgment taken within this state shall be in substantially the following form:

| | | |
|---|---------------------------|--|
| State of California County of _____ | } | |
| On _____ before me, (here insert name and title of the officer), personally appeared _____ _____ _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. | | |
| WITNESS my hand and official seal. | | |
| <u>NOTARY PUBLIC SIGNATURE</u> | <u>NOTARY PUBLIC SEAL</u> | |

NOTE: Key wording of an acknowledgment is “personally appeared.” It is not acceptable to affix an acknowledgment to a document mailed or otherwise delivered to a notary public whereby the signer did NOT personally appear before the notary public, even if the signer is known by the notary public. Also, it is not acceptable to affix a notary public seal and signature to a document without the notarial wording.

JURAT

The second form most frequently completed by a notary public is the jurat. (Government Code section 8202) The jurat is identified by the wording “Subscribed and sworn to (or affirmed)” contained in the form. In the jurat, the notary public certifies:

1. That the signer **personally appeared** before the notary public on the date indicated and in the county indicated.
2. That the signer signed the document in the presence of the notary public.
3. That the notary public administered the oath or affirmation.*
4. To the identity of the signer.

Any jurat taken within this state shall be in the following form:

| | | |
|---|---------------------------|--|
| State of California | } | |
| County of _____ | } | |
| Subscribed and sworn to (or affirmed) before me on this ____ day of _____, 20__, by _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me. | | |
| <u>NOTARY PUBLIC SIGNATURE</u> | <u>NOTARY PUBLIC SEAL</u> | |

NOTE: Key wording of a jurat is “subscribed and sworn to (or affirmed) before me.” It is not acceptable to affix a jurat to a document mailed or otherwise delivered to a notary public whereby the signer did NOT personally appear, take an oath, and sign in the presence of the notary public, even if the signer is known by the notary public. Also, it is not acceptable to affix a notary public seal and signature to a document without the notarial wording.

**There is no prescribed wording for the oath, but an acceptable oath would be “Do you swear or affirm that the statements in this document are true?” When administering the oath, the signer and notary public traditionally each raise their right hand but this is not a legal requirement.*

PROOF OF EXECUTION BY A SUBSCRIBING WITNESS

If a person, called the principal, has signed a document, but cannot personally appear before a notary public, another individual can appear on that principal’s behalf to prove the execution by the principal. That person is called a subscribing witness. (Civil Code section 1195)

NOTE: A proof of execution by a subscribing witness cannot be used in conjunction with any Deed of Trust, Mortgage, Security Agreement, Quitclaim Deed, or a Grant Deed document. (Government Code section 27287)

The requirements for proof of execution by a subscribing witness are as follows:

1. The subscribing witness must be able to say, under oath, that he or she either saw the principal sign the document or heard the principal acknowledge that he or she signed the document. (Code of Civil Procedure section 1935)
2. The subscribing witness must personally know the notary public, or if the subscribing witness does not personally know the notary public, then his or her identity must be established, or proved, by a third party. That third party must personally know both the

subscribing witness and the notary public. (Civil Code section 1196) That third party is called a credible witness. Since the subscribing witness must be personally known by the notary public, or by one credible witness, paper identification cannot be used in establishing the subscribing witness' identity. (Civil Code section 1196)

3. The subscribing witness must sign the document. (Code of Civil Procedure section 1935 and Civil Code section 1197)
4. The subscribing witness must sign the notary public's official journal. (Government Code section 8206(a)(2)(C)) In addition, if the identity of the subscribing witness was established by a third party, or credible witness, then the credible witness must also sign the notary public's official journal. (Government Code section 8206(a)(2)(D))

The following scenario provides an example of how Proof by Subscribing Witness form may be used:

The *principal*, Steve, needs to get a document notarized.

Steve is in the hospital and, therefore, cannot appear before Cathy, the *Notary Public*, in order to get his signature notarized.

Steve's longtime friend, Joe, is at the hospital visiting Steve. Steve tells Joe that he needs to get a document notarized. Since Steve can't leave, he asks Joe, the *Subscribing Witness*, to get the document notarized on his behalf. Steve could have either signed the document in Joe's presence or have signed it prior to Joe's arrival. If the document was signed prior to Joe's arrival, Steve would need to have acknowledged to Joe at that time that he signed the document. Steve then gives the document to Joe. Joe, who personally knows Notary Public Cathy, goes to her office and advises her that Steve wants to get the document notarized.

Joe must sign or have signed the document as the Subscribing Witness. Cathy, in her capacity as a Notary Public, must place Joe under oath. Under oath or affirmation, Joe then swears to Cathy that Steve signed the document, that he personally knows Steve, and that Steve asked him to get the document notarized.

Since Joe is the person who appeared before Cathy, Joe must sign Cathy's notary public journal. Cathy notarizes Joe's signature and then enters the information in her journal entry. In that Joe is the subscribing witness and paper identification is not allowed, Cathy does not enter Joe's driver's license in her journal. Joe then takes the document back to Steve.

Shown below is a suggested format for proof of execution by a subscribing witness. Other formats with similar wording may also be acceptable.

| | | |
|--|--------------------|-----|
| State of California County of _____ | } | ss. |
| On _____ (date), before me, the undersigned, a notary public for the state, personally appeared _____ (subscribing witness's name), personally known to me (or proved to me on the oath of _____ [credible witness's name], who is personally known to me) to be the person whose name is subscribed to the within instrument, as a witness thereto, who, being by me duly sworn, deposed and said that he/she was present and saw/heard acknowledged _____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within and annexed instrument in his/her/their authorized capacity(ies) as (a) party (ies) thereto, execute the same, and that said affiant subscribed his/her name to the within instrument as a witness at the request of _____ (name[s] of principal[s]). WITNESS my hand and official seal. | | |
| <u>NOTARY PUBLIC SIGNATURE</u> | NOTARY PUBLIC SEAL | |

NOTE: It is not acceptable to affix a notary public seal and signature to a document without the notarial wording.

SIGNATURE BY MARK

When the signer of an instrument cannot write (sign) his or her name, that person may sign the document by mark. (Civil Code section 14) The requirements for signature by mark are as follows:

- 1. The person signing the document by mark must be identified by the notary public by either personal knowledge or satisfactory evidence. (Civil Code section 1185)
- 2. The signer’s mark must be witnessed by two persons who must subscribe their own names as witnesses on the document. One witness should write the person’s name next to the person’s mark and then the witness should sign his or her name as a witness. The witnesses are only verifying that they witnessed the individual make his or her mark on the document. A notary public is not required to identify the two persons who witnessed the signing by mark or to have the two witnesses sign the notary public’s journal. **EXCEPTION:** If the witnesses were acting in the capacity of credible witnesses in establishing the *identity* of the person signing by mark, then the witnesses’ signatures must be entered in the notary public’s journal.

Following is an example of a Power of Attorney executed by Signature by Mark:

I, Bob Smith, give my power of attorney to Jane Brown to act as my Attorney on all matters pertaining to the handling of my estate, finances, and investments. This Power of Attorney is to remain in effect until another document revoking this instrument has been filed of record thereby rendering this instrument null and void.

Date: Feb. 5, 1998 Name: X Bob Smith By: Vicki Jones
 Witness #1
Steve Wilson
 Witness #2

State of California }
 County of Orange } ss.

On February 5, 1998, before me, John Doe, a notary public for the State of California, personally appeared Bob Smith, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal.

NOTARY PUBLIC SIGNATURE **NOTARY PUBLIC SEAL**

NOTE: It is not acceptable to affix a notary public seal and signature to a document without the notarial wording.

POWERS OF ATTORNEY - CERTIFYING

A notary public can certify copies of powers of attorney. A certified copy of a power of attorney that has been certified by a notary public has the same force and effect as the original power of attorney. (Probate Code section 4307)

A suggested format for the certification is shown below. Other formats with similar wording may also be acceptable.

| | | |
|---|---------------------------|-----|
| State of California County of _____ | } | ss. |
| I (<u>name of notary public</u>), Notary Public, certify that on <u>(date)</u> , I examined the original power of attorney and the copy of the power of attorney. I further certify that the copy is a true and correct copy of the original power of attorney. | | |
| <u>NOTARY PUBLIC SIGNATURE</u> | <u>NOTARY PUBLIC SEAL</u> | |

NOTE: It is not acceptable to affix a notary public seal and signature to a document without the notarial wording.

NOTARIZATION OF INCOMPLETE DOCUMENTS

A notary public may not notarize a document which is incomplete. If presented with a document for notarization, which the notary public knows from his or her experience to be incomplete or is without doubt on its face incomplete, the notary public must refuse to notarize the document. (Government Code section 8205)

CERTIFIED COPIES

California statute specifies that a notary public may only certify copies of powers of attorney under Probate Code section 4307, and copies of his or her notary public journal. (Government Code sections 8205(a)(4) and 8205(b)(1))

Certified copies of birth, fetal death, death, and marriage records may be made only by the State Registrar, by duly appointed and acting local registrars during their term of office, and by county recorders. (Health & Safety Code section 103545)

WILLS

The California State Bar advises that when a notary public is asked to notarize a document which purports to be a will, the notary public should decline and advise the person requesting the notarization to consult a member of the California State Bar. If an attorney recommends that the document be notarized, a notary public may do so.

ILLEGAL ADVERTISING

California law requires any non-attorney notary public who advertises notarial services in a language other than English to post a prescribed notice, in English and the other language, that the notary public is not an attorney and cannot give legal advice about immigration or any other legal matters. The notary public must also list the fees set by statute which a notary public may charge for notarial services. In any event, a notary public may not translate the term "Notary Public," defined as "notario publico" or "notario," into Spanish, even if the prescribed notice is also posted. A first offense of this law is grounds for the suspension or

revocation of a notary public's commission. A second offense shall be grounds for the permanent revocation of a notary public's commission. (Government Code section 8219.5)

A notary public is legally barred from advertising in any manner whatsoever that he or she is a notary public if the notary public promotes himself or herself as an immigration specialist or consultant. (Government Code section 8223)

IMMIGRATION DOCUMENTS

Contrary to popular belief, there is no prohibition against notarizing immigration documents. However, several laws specifically outline what a notary public can and cannot do. Only a person who is qualified and bonded as an immigration consultant under the Business and Professions Code may assist a client in completing immigration forms. A notary public may not charge any individual more than \$10 for each set of forms, unless the notary public is also an attorney who is rendering professional services as an attorney. This fee limitation applies even if the person is not performing notarial duties. (Government Code section 8223)

CONFIDENTIAL MARRIAGES

Confidential marriage licenses may be issued by the county clerk to a notary public pursuant to Family Code section 503. The license shall be valid for a period of 90 days and *may only be used in the county in which it was issued.*

A notary public who is interested in authorizing confidential marriages may apply for approval to the county clerk in the county in which the notary public resides. A notary public *shall not* authorize a confidential marriage unless he or she is approved by the county clerk having jurisdiction. The county clerk offers a course of instruction, which a notary public must complete before authorization will be granted. Additionally, in order for a notary public to *perform* the marriage, he/she must be one of the persons authorized under Family Code sections 400 to 402, e.g., priest, minister, or rabbi. The county clerk in the county where the notary public resides may or may not approve the authorizing of confidential marriages. It is best to check with the county clerk if interested in obtaining approval.

The form that a notary public completes when notarizing a confidential marriage license is a jurat. Execution of a jurat requires that the signers personally appeared before the notary public, that the signers signed the document in the presence of the notary public, that the notary public administered the oath or affirmation, and that the notary public certified to the identity of the signer. (Government Code section 8202) Please refer to the section of this handbook titled "JURAT" for the prescribed form.

If the county clerk finds that the notary public has violated any of the provisions of Family Code section 500 et. seq. regarding confidential marriages, the county clerk may place the notary public on probation or suspend or revoke his or her approval. If a notary public violates any of the provisions of Government Code section 8214.1, the approval shall be revoked. In addition, the county clerk shall report the findings of any hearing to the Secretary of State for appropriate action.

GROUND FOR DENIAL, REVOCATION, OR SUSPENSION OF APPOINTMENT AND COMMISSION

The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of a notary public for specific reasons. These reasons include but are not limited to: a substantial misstatement or omission in the application; conviction of a felony or a disqualifying criminal conviction; failure to furnish the Secretary of State with certified copies of the notary public journal when requested to do so or to provide information

relating to official acts performed by the notary public; charging more than the fee prescribed by law; failure to complete the acknowledgment at the time the notary public's seal and signature are attached to the document; executing a false certificate; failure to submit to the Secretary of State any court ordered money judgment, including restitution; failure to secure the sequential journal or the official seal; illegal advertising. (Government Code sections 8205, 8214.1, 8219.5 and 8223)

In addition, the Secretary of State may deny the notary public application or suspend the notary public commission of a person who has not complied with child or family support obligations. (Family Code section 17520)

DISCIPLINARY GUIDELINES

In June 1998, the Secretary of State instituted disciplinary guidelines, which were revised effective March 31, 2001, in order to facilitate due process and to maintain consistency in reviewing applications, investigating alleged violations, and implementing administrative actions. (Government Code section 8220)

The disciplinary guidelines are designed to assist administrative law judges, in addition to assisting attorneys, notaries public, applicants, and others involved in the disciplinary process. The disciplinary guidelines are used to determine what disciplinary action will be taken for violations of notary public law. The disciplinary guidelines are available on the Secretary of State's website or can be mailed to you upon request. Please refer to the inside front cover of this handbook for our website and mailing addresses.

IMPORTANT ISSUES AND INFORMATION

Fees charged for services performed

Government Code section 8211 specifies the maximum fees that may be charged for notary public services; however, a notary public may elect to charge no fee or an amount that is less than the maximum amount prescribed by law. The charging of a fee and the amount of the fee charged is at the discretion of the notary public or the notary public's employer provided it does not exceed the maximum fees. To avoid possible problems, the fees charged (or not charged) should be consistent from customer to customer. The notary public is still required to make an entry in the notary public journal even if no fee was charged, such as "no fee" or "0." (Government Code section 8206)

EXCEPTIONS: 1) Pursuant to Government Code section 8203.6, no fees shall be collected by notaries appointed to military and naval reservations in accordance with 8203.1; 2) pursuant to Elections Code section 8080, no fee shall be collected by notaries for verifying any nomination document or circulator's affidavit; and 3) pursuant to Government Code section 6107, no fee may be charged to a United States military veteran for notarization of an application or a claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's benefit. In addition, Government Code section 6100 requires any notary public who is appointed to act for and on behalf of certain public agencies, pursuant to Government Code section 8202.5, to charge for all services and remit the fees received to the employing agency. The fee charged must still be entered in the journal.

Change of business address, residence address and/or change of county

A notary public is required to notify the Secretary of State in writing, by certified mail, within 30 days of any change of business or residence address. (Government Code section 8213.5) Upon the change of a business address, a notary public may elect to file a new oath of office and bond in the new county. However, this is optional. Once commissioned, a notary public

may perform notary public services anywhere in the state. The original oath and bond must be filed in the county where the notary public maintains their principal place of business as shown in the application filed with the Secretary of State, but is permissive as to whether or not a change of county is filed with the county after the original oath and bond have been filed should the notary public move. (Government Code section 8213) There is no fee for the processing of address change notifications with the Secretary of State.

NOTE: To ensure proper processing, please include the following when submitting an address change notification:

- name of the notary public exactly as it appears on the commission certificate;
- commission number and expiration date of the commission;
- whether the address change is for the business, residence, and/or for mailing purposes; and
- new business, residence, and/or mailing address.

Please be sure the request is signed and dated by the notary public. The change of address can be submitted in letter form or, for your convenience, an address change form is available on the Secretary of State's website or can be mailed to you upon request. Please refer to the inside front cover of this handbook for our website and mailing addresses.

Miscellaneous provisions

- Unless working under an agreement with an employer as described in Government Code sections 8202.7 and 8202.8, or having a direct financial or beneficial interest to the transaction as described in Government Code section 8224, it is the **duty** of the California notary public, upon the payment of any fees, if applicable, **to notarize** upon request any properly submitted document for any person, anywhere in the State of California. (Government Code section 6110)
- A notary public is not prohibited from notarizing for **relatives**, unless doing so would provide a direct financial or beneficial interest to the notary public. (Government Code section 8224) With California's community property law, care should be exercised if notarizing for a spouse.
- A notary public can notarize a signature on a document in a **foreign language** with which they are not familiar, as a notary public is not responsible for the contents of the document. The notary public should be able to identify the type of document being notarized for entry in the notary public's journal. If unable to identify the type of document, the notary public must make an entry to that effect in their journal, e.g. "a document in a foreign language." The notary public should be mindful of the completeness of the document and must not notarize the signature on the document if the document appears to be incomplete. The notary public is responsible for completing the acknowledgment or jurat form.
- When notarizing a signature on a document, a notary public must be able to communicate with their customer in order for the signer to either swear to or affirm the contents of the affidavit or to acknowledge the execution of the document. An interpreter should not be used, as vital information could be lost in the translation. If a notary public is unable to communicate with a customer, the customer should be referred to a notary public who speaks the customer's language.

COMMON QUESTIONS AND ANSWERS

- Q. If a person was convicted of a DUI, petty theft, trespass, etc., will that person be disqualified from becoming a notary public?
- A. The Secretary of State cannot make a determination as to whether or not a person meets the qualifications to become a notary public until a thorough background check has been

completed. If you are concerned as to whether you may be disqualified from becoming a notary public based upon past conviction information, please refer to the *Notary Public Disciplinary Guidelines* (2001), which also includes a list of the most common disqualifying convictions. The disciplinary guidelines are available on the Secretary of State's website or can be mailed to you upon request. Please refer to the inside front cover of this handbook for our website and mailing addresses.

- Q. I had a conviction over 25 years ago. Do I still need to disclose this conviction on my application?
- A. There is no time limit for disclosure of convictions. If you have *ever* been convicted, including being convicted for a DUI, you must disclose this on your application.
- Q. How soon can I take the test for reappointment if I currently hold a notary public commission?
- A. It is recommended that you take the exam at least six months prior to the expiration date of your current commission if you do not want to have a break in commission terms. Keep in mind that the test results are only valid for one year from the date of the examination. (California Code of Regulations 20801)
- Q. I have been a notary public for over 20 years. Will I still be required to take the initial six-hour approved course of study?
- A. Yes, initially everyone, including those notaries who have held previous commission terms, will be required to satisfactorily complete a six-hour course of study prior to reappointment as a notary public, if that reappointment occurs on or after July 1, 2005. (Government Code section 8201(a)(3))
- Q. Will I be required to take an approved course of study each time I apply for reappointment?
- A. Yes, an applicant for notary public who holds a California notary public commission and who has completed the initial six-hour approved course of study will be required to satisfactorily complete a three-hour refresher course of study prior to reappointment as a notary public for all subsequent terms. (Government Code section 8201(b)(2))
- Q. I have taken courses in the past prior to taking the exam. Will I still be required to take the six-hour course?
- A. Yes, because in the past, you were not required to take these courses prior to being appointed as a notary public and those courses were not "approved" by the Secretary of State. However, now that mandatory education will be one of the qualifications you must meet in order to become a notary public, you will be required to complete the approved course of study in order to qualify under the new legislation. (Government Code section 8201(a)(3))
- Q. I have passed every notary public exam I have taken in the past. I even scored 100% on my last exam. Is there any way to skip the six-hour course and take the three-hour course instead?
- A. No, the new legislation specifically states that for appointments made on or after July 1, 2005, you must complete a six-hour course of study approved by the Secretary of State to qualify to become a notary public. (Government Code section 8201(a)(3))
- Q. I have changed my business or home address, what do I do?
- A. Send our office a letter or a change of address form by certified mail within 30 days of the change. (Government Code section 8213.5)
- Q. I have changed my business from one county to another, what do I do?
- A. Your commission allows you to notarize throughout the State of California. If the location of your business has changed, you are not required to transfer your oath of office and bond to that new county. You are, however, required to send our office an address

change via certified mail. If you do choose to transfer your county, you will need to take and file an oath of office and take the original or a duplicate of the original bond and file it with the new county. A certificate of authorization to manufacture a notary public seal will be sent to you once you have qualified by filing your new oath of office with the new county. Your stamp must reflect the county where your oath and bond are filed. (Government Code sections 8213 and 8213.5)

- Q. Am I required to see the person sign the document at the time I perform the notarization?
- A. If you are preparing an acknowledgment form, then “no.” The document can be executed before the person brings it to you for notarization. In an acknowledgment, the signer is acknowledging that he/she executed the document, not that they executed the document in your presence. However, when preparing a jurat form, then “yes.” The person requesting the jurat form must appear before you, take an oath, and sign the document in your presence. In addition, for both an acknowledgment and a jurat, the notary public must certify to the identity of the signer. (Civil Code section 1189 and Government Code section 8202)
- Q. I lost my stamp or journal, what do I do?
- A. Send a letter by certified mail to the Secretary of State explaining what happened and, if applicable, a photocopy of a police report. If you have had your stamp lost or stolen, we will send an authorization so you can have a new stamp made. (Government Code sections 8206 and 8207.3)
- Q. I have changed my name. What do I do?
- A. Send a completed name change form to the Secretary of State and, once approved, you will be issued an amended commission that reflects your new name. You will then need to file a new oath of office and an amendment to your bond with the county clerk within 30 days from the date the amended commission was issued in order for the name change to take effect. (Government Code sections 8213 and 8213.6)
- Q. I need to request a new certificate of authorization to have a new stamp made. Is there a fee?
- A. No; however, you must send our office a written request for a certificate of authorization. (Government Code section 8207.3(e))
- Q. How do I resign my commission?
- A. If you want to resign your commission, send a letter to our office and deliver all of your notarial records and papers to the **county clerk** in which your current oath of office is on file within 30 days. (Government Code section 8209)
- Q. I did not file my oath and bond on time, what do I do?
- A. If you failed to file your oath and bond within the prescribed time, your commission is **void**. (Government Code section 8213(a)) If you wish to reapply, you must complete a new application and send it to our office with a check for \$20.00.
- Q. Where can I get a live scan fingerprint form?
- A. You will be sent a live scan fingerprint form with instructions once you have passed the examination.

GOVERNMENT CODE

Notaries Public

(Chapter 3, Division 1, Title 2)

§ 8200. Appointment and commission; number; jurisdiction

The Secretary of State may appoint and commission notaries public in such number as the Secretary of State deems necessary for the public convenience. Notaries public may act as such notaries in any part of this state.

§ 8201. Qualifications to be a notary public; proof of course completion; reappointment

(a) Every person appointed as notary public shall meet all of the following requirements:

(1) Be at the time of appointment a legal resident of this state, except as otherwise provided in Section 8203.1.

(2) Be not less than 18 years of age.

(3) For appointments made on or after July 1, 2005, have satisfactorily completed a six-hour course of study approved by the Secretary of State pursuant to Section 8201.2 concerning the functions and duties of a notary public.

(4) Have satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions and duties of the office of notary public. All questions shall be based on the law of this state as set forth in the booklet of the laws of California relating to notaries public distributed by the Secretary of State.

(b) (1) Commencing July 1, 2005, each applicant for notary public shall provide satisfactory proof that he or she has completed the course of study required pursuant to paragraph (3) of subdivision (a) prior to approval of his or her appointment as a notary public by the Secretary of State.

(2) Commencing July 1, 2005, an applicant for notary public who holds a California notary public commission, and who has satisfactorily completed the six-hour course of study required pursuant to paragraph (1) at least one time, shall provide satisfactory proof when applying for reappointment as a notary public that he or she has satisfactorily completed a three-hour refresher course of study prior to reappointment as a notary public by the Secretary of State.

§ 8201.1. Additional qualifications; determination; identification; fingerprints

Prior to granting an appointment as a notary public, the Secretary of State shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. To assist in determining the identity of the applicant and whether the applicant has been convicted of a disqualifying crime specified in subdivision (b) of Section 8214.1, the Secretary of State shall require that applicants be fingerprinted.

§ 8201.2. Review of course of study and refresher courses for notary public; approval of education course of study, violation of regulations; civil penalties

(a) Commencing January 1, 2005, the Secretary of State shall review the course of study and any refresher course proposed by any vendor to be offered pursuant to paragraph (3) of subdivision (a) and paragraph (2) of subdivision (b) of Section 8201. If the course of study includes all material that a person is expected to know to satisfactorily complete the written examination required pursuant to paragraph (4) of subdivision (a) of Section 8201, the Secretary of State shall approve the course of study.

(b) (1) The Secretary of State shall, by regulation, prescribe an application form and adopt a certificate of approval for the notary public education course of study proposed by a vendor.

(2) The Secretary of State may also provide a notary public education course of study.

(c) The Secretary of State shall compile a list of all persons offering an approved course of study pursuant to subdivision (a) and shall provide the list with every booklet of the laws of California relating to notaries public distributed by the Secretary of State.

(d) (1) A person who provides notary public education and violates any of the regulations adopted by the Secretary of State for approved vendors is subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each violation and shall be required to pay restitution where appropriate.

(2) The local district attorney, city attorney, or the Attorney General may bring a civil action to recover the civil penalty prescribed pursuant to this subdivision.

§ 8201.5. Application form; confidential nature; use of information

The Secretary of State shall require an applicant for appointment and commission as a notary public to complete an application form prescribed by the Secretary of State. Information on this form filed by an applicant with the Secretary of State, except for his name and address, is confidential and no individual record shall be divulged by an official or employee having access to it to any person other than the applicant, his authorized representative, or an employee or officer of the federal government, the state government, or a local agency, as defined in subdivision (b) of Section 6252 of the Government Code, acting in his official capacity. Such information shall be used by the Secretary of State for the sole purpose of carrying out the duties of this chapter.

§ 8202. Execution of jurat; administration of oath or affirmation to affiant; attachment to affidavit

(a) When executing a jurat, a notary shall administer an oath or affirmation to the affiant and shall determine, from personal knowledge or satisfactory evidence as described in Section 1185 of the Civil Code, that the affiant is the person executing the document. The affiant shall sign the document in the presence of the notary.

(b) To any affidavit subscribed and sworn to before a notary, there shall be attached a jurat in the following form:

State of California

County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal _____

Signature _____

§ 8202.5. State, county and school district employees; certificates; expenses

The Secretary of State may appoint and commission the number of state, city, county, and public school district employees as notaries public to act for and on behalf of the governmental entity for which appointed which the Secretary of State deems proper. Whenever a notary is appointed and commissioned, a duly authorized representative of the employing governmental entity shall execute a certificate that the appointment is made for the purposes of the employing governmental entity, and whenever the certificate is filed with any state or county officer, no fees shall be charged by the officer for the filing or issuance of any document in connection with the appointment.

The state or any city, county, or school district for which the notary public is appointed and commissioned pursuant to this section may pay from any funds available for its support the premiums on any bond and the cost of any stamps, seals, or other supplies required in connection with the appointment, commission, or performance of the duties of the notary public.

Any fees collected or obtained by any notary public whose documents have been filed without charge and for whom bond premiums have been paid by the employer of the notary public shall be remitted by the notary public to the employing agency which shall deposit the funds to the credit of the fund from which the salary of the notary public is paid.

§ 8202.7. Private employers; agreement to pay premium on bonds and costs of supplies; remission of fees to employer

A private employer, pursuant to an agreement with an employee who is a notary public, may pay the premiums on any bond and the cost of any stamps, seals, or other supplies required in connection with the appointment, commission, or performance of the duties of such notary public. Such agreement may also provide for the remission of fees collected by such notary public to the employer, in which case any fees collected or obtained by such notary public while such agreement is in effect shall be remitted by such notary public to the employer which shall deposit such funds to the credit of the fund from which the compensation of the notary public is paid.

§ 8202.8. Private employers; limitation on provision of notarial services

Notwithstanding any other provision of law, a private employer of a notary public who has entered into an agreement with his or her employee pursuant to Section 8202.7 may limit, during the employee's ordinary course of employment, the providing of notarial services by the employee solely to transactions directly associated with the business purposes of the employer.

§ 8203.1. Military and naval reservations; appointment and commission of notaries; qualifications

The Secretary of State may appoint and commission notaries public for the military and naval reservations of the Army, Navy, Coast Guard, Air Force, and Marine Corps of the United States, wherever located in the state; provided, however, that the appointee shall be a citizen of the United States, not less than 18 years of age, and must meet the requirements set forth in paragraphs (3) and (4) of subdivision (a) of Section 8201.

§ 8203.2. Military and naval reservations, recommendation of commanding officer; jurisdiction of notary

Such notaries public shall be appointed only upon the recommendation of the commanding officer of the reservation in which they are to act, and they shall be authorized to act only within the boundaries of this reservation.

§ 8203.3. Military and naval reservations, qualifications of notaries

In addition to the qualifications established in Section 8203.1, appointment will be made only from among those persons who are federal civil service employees at the reservation in which they will act as notaries public.

§ 8203.4. Military and naval reservations; term of office; termination; resignation

The term of office shall be as set forth in Section 8204, except that the appointment shall terminate if the person shall cease to be employed as a federal civil service employee at the reservation for which appointed. The commanding officer of the reservation shall notify the Secretary of State of termination of employment at the reservation for which appointed within 30 days of such termination. A notary public whose appointment terminates pursuant to this section will have such termination treated as a resignation.

§ 8203.5. Military and naval reservations, jurat

In addition to the name of the State, the jurat shall also contain the name of the reservation in which the instrument is executed.

§ 8203.6. Military and naval reservations, fees

No fees shall be collected by such notaries public for service rendered within the reservation in the capacity of a notary public.

§ 8204. Term of office

The term of office of a notary public is for four years commencing with the date specified in the commission.

§ 8204.1. Cancellation of Commission; failure to pay; notice

The Secretary of State may cancel the commission of a notary public if a check or other remittance accepted as payment for the examination, application, commission, and fingerprint fee is not paid upon presentation to the financial institution upon which the check or other remittance was drawn. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall first give a written notice of the applicability of this section to the notary public or the person submitting the instrument. Thereafter, if the amount is not paid by a cashier's check or the equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. This second notice shall be given at least 20 days after the first notice, and no more than 90 days after the commencement date of the commission.

§ 8205. Duties

(a) It is the duty of a notary public, when requested:

(1) To demand acceptance and payment of foreign and inland bills of exchange, or promissory notes, to protest them for nonacceptance and nonpayment, and, with regard only to the nonacceptance or nonpayment of bills and notes, to exercise any other powers and duties that by the law of nations and according to commercial usages, or by the laws of any other state, government, or country, may be performed by notaries.

(2) To take the acknowledgment or proof of advance health care directives, powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing executed by any person, and to give a certificate of that proof or acknowledgment, endorsed on or attached to the instrument. The certificate shall be signed by the notary public in the notary public's own handwriting. A notary public may not accept any acknowledgment or proof of any instrument that is incomplete.

(3) To take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before any court, judge, officer, or board. Any deposition, affidavit, oath, or affirmation shall be signed by the notary public in the notary public's own handwriting.

(4) To certify copies of powers of attorney under Section 4307 of the Probate Code. The certification shall be signed by the notary public in the notary public's own handwriting.

(b) It shall further be the duty of a notary public, upon written request:

(1) To furnish to the Secretary of State certified copies of the notary's journal.

(2) To respond within 30 days of receiving written requests sent by certified mail from the Secretary of State's office for information relating to official acts performed by the notary.

§ 8206. Sequential journal; contents; thumbprint; loss of journal; copies of pages; exclusive property of notary public; limitations on surrender

(a) (1) A notary public shall keep one active sequential journal at a time, of all official acts performed as a notary public. The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. Failure to secure the journal shall be cause for the Secretary of State to take administrative action against the commission held by the notary public pursuant to Section 8214.1.

(2) The journal shall be in addition to and apart from any copies of notarized documents that may be in the possession of the notary public and shall include all of the following:

(A) Date, time, and type of each official act.

(B) Character of every instrument sworn to, affirmed, acknowledged or proved before the notary.

(C) The signature of each person whose signature is being notarized.

(D) A statement as to whether the identity of a person making an acknowledgment or taking an oath or affirmation was based on personal knowledge or satisfactory evidence. If identity was established by satisfactory evidence pursuant to Section 1185 of the Civil Code, then the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document.

(E) If the identity of the person making the acknowledgment or taking the oath or affirmation was established by the oaths or affirmations of two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the type of identifying documents, the identifying numbers of the documents and the dates of issuance or expiration of the documents presented by the witnesses to establish their identity.

(F) The fee charged for the notarial service.

(G) If the document to be notarized is a deed, quitclaim deed, or deed of trust affecting real property, the notary public shall require the party signing the document to place his or her right thumbprint in the journal. If the right thumbprint is not available, then the notary shall have the party use his or her left thumb, or any available finger and shall so indicate in the journal. If the party signing the document is physically unable to provide a thumbprint or fingerprint, the notary shall so indicate in the journal and shall also provide an explanation of that physical condition. This paragraph shall not apply to a trustee's deed resulting from a decree of foreclosure or a nonjudicial foreclosure pursuant to Section 2924 of the Civil Code, nor to a deed of reconveyance.

(b) If a sequential journal of official acts performed by a notary public is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable as a record of notarial acts and information, the notary public shall immediately notify the Secretary of State by certified or registered mail. The notification shall include the period of the journal entries, the notary public commission number, and the expiration date of the commission, and when applicable, a photocopy of any police report that specifies the theft of the sequential journal of official acts.

(c) Upon written request of any member of the public, which request shall include the name of the parties, the type of document, and the month and year in which notarized, the notary shall supply a photostatic copy of the line item representing the requested transaction at a cost of not more than thirty cents (\$0.30) per page.

(d) The journal of notarial acts of a notary public is the exclusive property of that notary public, and shall not be surrendered to an employer upon termination of employment, whether or not the employer paid for the journal, or at any other time. The notary public shall not surrender the journal to any other person, except the county clerk, pursuant to Section 8209, or to a peace officer, as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code, acting in his or her official capacity and within his or her authority, in response to a criminal search warrant signed by a magistrate and served upon the notary public by the peace officer. The notary public shall obtain a receipt for the journal, and shall notify the Secretary of State by certified mail within 10 days that the journal was relinquished to a peace officer. The notification shall include the period of the journal entries, the commission number of the notary public, the expiration date of the commission, and a photocopy of the receipt. The notary public shall obtain a new sequential journal. If the journal relinquished to a peace officer is returned to the notary public and a new journal has been obtained, the notary public shall make no new entries in the returned journal. A notary public who is an employee shall permit inspection and copying of journal transactions by a duly designated auditor or agent

of the notary public's employer, provided that the inspection and copying is done in the presence of the notary public and the transactions are directly associated with the business purposes of the employer. The notary public, upon the request of the employer, shall regularly provide copies of all transactions that are directly associated with the business purposes of the employer, but shall not be required to provide copies of any transaction that is unrelated to the employer's business. Confidentiality and safekeeping of any copies of the journal provided to the employer shall be the responsibility of that employer.

(e) The notary public shall provide the journal for examination and copying in the presence of the notary public upon receipt of a subpoena duces tecum or a court order, and shall certify those copies if requested.

§ 8207. Seal

A notary public shall provide and keep an official seal, which shall clearly show, when embossed, stamped, impressed or affixed to a document, the name of the notary, the State Seal, the words "Notary Public," and the name of the county wherein the bond and oath of office are filed, and the date the notary public's commission expires. The seal of every notary public commissioned on or after January 1, 1992, shall contain the sequential identification number assigned to the notary and the sequential identification number assigned to the manufacturer or vendor. The notary public shall authenticate with the official seal all official acts.

A notary public shall not use the official notarial seal except for the purpose of carrying out the duties and responsibilities as set forth in this chapter. A notary public shall not use the title "notary public" except for the purpose of rendering notarial service.

The seal of every notary public shall be affixed by a seal press or stamp that will print or emboss a seal which legibly reproduces under photographic methods the required elements of the seal. The seal may be circular not over two inches in diameter, or may be a rectangular form of not more than one inch in width by two and one-half inches in length, with a serrated or milled edged border, and shall contain the information required by this section.

The seal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. Failure to secure the seal shall be cause for the Secretary of State to take administrative action against the commission held by the notary public pursuant to Section 8214.1.

The official seal of a notary public is the exclusive property of that notary public, and shall not be surrendered to an employer upon the termination of employment, whether or not the employer paid for the seal, or to any other person. The notary, or his or her representative, shall destroy or deface the seal upon termination, resignation, or revocation of the notary's commission.

This section shall become operative on January 1, 1992.

§ 8207.1. Identification number

The Secretary of State shall assign a sequential identification number to each notary which shall appear on the notary commission.

This section shall become operative on January 1, 1992.

§ 8207.2. Manufacture, duplication, and sale of seal or stamp; procedures and guidelines for issuance of seals; certificate of authorization

(a) No notary seal or press stamp shall be manufactured, duplicated, sold, or offered for sale unless authorized by the Secretary of State.

(b) The Secretary of State shall develop and implement procedures and guidelines for the issuance of notary seals on or before January 1, 1992.

(c) The Secretary of State shall issue a permit with a sequential identification number to each manufacturer or vendor authorized to issue notary seals. The Secretary of State may

establish a fee for the issuance of the permit which shall not exceed the actual costs of issuing the permit.

(d) The Secretary of State shall develop a certificate of authorization to purchase a notary stamp from an authorized vendor.

(e) The certificate of authorization shall be designed to prevent forgeries and shall contain a sequential identification number.

(f) This section shall become operative on January 1, 1992.

§ 8207.3. Certificates of authorization; authorization to provide seal; lost, misplaced, damaged or otherwise unworkable seal

(a) The Secretary of State shall issue certificates of authorization with which a notary public can obtain an official notary seal.

(b) A vendor or manufacturer is authorized to provide a notary with an official seal only upon presentation by the notary public of a certificate of authorization.

(c) A vendor of official seals shall note the receipt of certificates of authorization and sequential identification numbers of certificates presented by a notary public upon a certificate of authorization.

(d) A copy of a certificate of authorization shall be retained by a vendor and the original, which shall contain a sample impression of the seal issued to the notary public, shall be submitted to the Secretary of State for verification and recordkeeping. The Secretary of State shall develop guidelines for submitting certificates of authorization by vendors.

(e) Any notary whose official seal is lost, misplaced, destroyed, broken, damaged, or is rendered otherwise unworkable shall immediately mail or deliver written notice of that fact to the Secretary of State. The Secretary of State, within five working days after receipt of the notice, if requested by a notary, shall issue a certificate of authorization which a notary may use to obtain a replacement seal.

(f) This section shall become operative on January 1, 1992.

§ 8207.4. Violations; penalties

(a) Any person who willfully violates any part of Section 8207.1, 8207.2, 8207.3, or 8207.4 shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500) for each violation, which may be recovered in a civil action brought by the Attorney General or the district attorney or city attorney, or by a city prosecutor in any city and county.

(b) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

(c) This section shall become operative on January 1, 1992.

§ 8208. Protest of bill or note for nonacceptance or nonpayment

The protest of a notary public, under his or her hand and official seal, of a bill of exchange or promissory note for nonacceptance or nonpayment, specifying any of the following is prima facie evidence of the facts recited therein:

(a) The time and place of presentment.

(b) The fact that presentment was made and the manner thereof.

(c) The cause or reason for protesting the bill.

(d) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

§ 8209. Resignation, disqualification or removal of notary; records delivered to clerk; misdemeanor; death; destruction of records

(a) If any notary public resigns, is disqualified, removed from office, or allows his or her appointment to expire without obtaining reappointment within 30 days, all notarial records and papers shall be delivered within 30 days to the clerk of the county in which the notary public's current official oath of office is on file. If the notary public willfully fails or refuses to deliver all notarial records and papers to the county clerk within 30 days, the person is

guilty of a misdemeanor and shall be personally liable for damages to any person injured by that action or inaction.

(b) In the case of the death of a notary public, the personal representative of the deceased shall promptly notify the Secretary of State of the death of the notary public and shall deliver all notarial records and papers of the deceased to the clerk of the county in which the notary public's official oath of office is on file.

(c) After 10 years from the date of deposit with the county clerk, if no request for, or reference to such records has been made, they may be destroyed upon order of court.

§ 8211. Fees

Fees charged by a notary public for the following services shall not exceed the fees prescribed by this section.

(a) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and the writing of the certificate, the sum of ten dollars (\$10) for each signature taken.

(b) For administering an oath or affirmation to one person and executing the jurat, including the seal, the sum of ten dollars (\$10).

(c) For all services rendered in connection with the taking of any deposition, the sum of twenty dollars (\$20), and in addition thereto, the sum of five dollars (\$5) for administering the oath to the witness and the sum of five dollars (\$5) for the certificate to the deposition.

(d) For every protest for the nonpayment of a promissory note or for the nonpayment or nonacceptance of a bill of exchange, draft, or check, the sum of ten dollars (\$10).

(e) For serving every notice of nonpayment of a promissory note or of nonpayment or nonacceptance of a bill of exchange, order, draft, or check, the sum of five dollars (\$5).

(f) For recording every protest, the sum of five dollars (\$5).

(g) No fee may be charged to notarize signatures on absentee ballot identification envelopes or other voting materials.

(h) For certifying a copy of a power of attorney under Section 4307 of the Probate Code the sum of ten dollars (\$10).

(i) In accordance with Section 6107, no fee may be charged to a United States military veteran for notarization of an application or a claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's benefit.

§ 8212. Bond; amount; form

Every person appointed a notary public shall execute an official bond in the sum of fifteen thousand dollars (\$15,000). The bond shall be in the form of a bond executed by an admitted surety insurer and not a deposit in lieu of bond.

§ 8213. Bonds and oaths; filing; certificate; copy of oath as evidence; transfer to new county; name changes; fees

(a) No later than 30 days after the beginning of the term prescribed in the commission, every person appointed a notary public shall file an official bond, and an oath of office in the office of the county clerk of the county within which the person maintains a principal place of business as shown in the application submitted to the Secretary of State, and the commission shall not take effect unless this is done within the 30-day period. A person appointed to be a notary public shall take and subscribe the oath of office either in the office of that county clerk or before another notary public in that county. If the oath of office is taken and subscribed before a notary public, the oath and bond may be filed with the county clerk by certified mail. Upon the filing of the oath and bond, the county clerk shall immediately transmit to the Secretary of State a certificate setting forth the fact of the filing and containing a copy of the official oath, personally signed by the notary public in the form set forth in the commission and shall immediately deliver the bond to the county recorder for recording. The county clerk shall retain the oath of office for one year following the

expiration of the term of the commission for which the oath was taken, after which the oath may be destroyed or otherwise disposed of. The copy of the oath, personally signed by the notary public, on file with the Secretary of State may at any time be read in evidence with like effect as the original oath, without further proof.

(b) If a notary public transfers the principal place of business from one county to another, the notary public may file a new oath of office and bond, or a duplicate of the original bond with the county clerk to which the principal place of business was transferred. If the notary public elects to make a new filing, the notary public shall, within 30 days of the filing, obtain an official seal which shall include the name of the county to which the notary public has transferred. In a case where the notary public elects to make a new filing, the same filing and recording fees are applicable as in the case of the original filing and recording of the bond.

(c) If a notary public submits an application for a name change to the Secretary of State, the notary public shall, within 30 days from the date an amended commission is issued, file a new oath of office and an amendment to the bond with the county clerk in which the principal place of business is located. The amended commission with the name change shall not take effect unless the filing is completed within the 30-day period. The amended commission with the name change takes effect the date the oath and amendment to the bond is filed with the county clerk. If the principal place of business address was changed in the application for name change, either a new or duplicate of the original bond shall be filed with the county clerk with the amendment to the bond. The notary public shall, within 30 days of the filing, obtain an official seal that includes the name of the notary public and the name of the county to which the notary public has transferred, if applicable.

(d) The recording fee specified in Section 27361 of the Government Code shall be paid by the person appointed a notary public. The fee may be paid to the county clerk who shall transmit it to the county recorder.

(e) The county recorder shall record the bond and shall thereafter mail, unless specified to the contrary, it to the person named in the instrument and, if no person is named, to the party leaving it for recording.

§ 8213.5. Change in location or address of business or residence; notice

A notary public shall notify the Secretary of State by certified mail within 30 days as to any change in the location or address of the principal place of business or residence.

§ 8213.6. Name changes; application; filing

If a notary public changes his or her name, the notary public shall complete an application for name change form and file that application with the Secretary of State. Information on this form shall be subject to the confidentiality provisions described in Section 8201.5. Upon approval of the name change form, the Secretary of State shall issue a commission that reflects the new name of the notary public. The term of the commission and commission number shall remain the same.

§ 8214. Misconduct or neglect

For the official misconduct or neglect of a notary public, the notary public and the sureties on the notary public's official bond are liable in a civil action to the persons injured thereby for all the damages sustained.

§ 8214.1. Grounds for refusal, revocation or suspension of commission

The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(a) Substantial and material misstatement or omission in the application submitted to the Secretary of State.

(b) Conviction of a felony, a lesser offense involving moral turpitude, or a lesser offense of

a nature incompatible with the duties of a notary public. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(c) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct, for dishonesty, or for any cause substantially relating to the duties or responsibilities of a notary public.

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

(e) When adjudged liable for damages in any suit grounded in fraud, misrepresentation, or violation of the state regulatory laws or in any suit based upon a failure to discharge fully and faithfully the duties as a notary public.

(f) The use of false or misleading advertising wherein the notary public has represented that the notary public has duties, rights, or privileges that he or she does not possess by law.

(g) The practice of law in violation of Section 6125 of the Business and Professions Code.

(h) Charging more than the fees prescribed by this chapter.

(i) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another.

(j) Failure to complete the acknowledgment at the time the notary's signature and seal are affixed to the document.

(k) Failure to administer the oath or affirmation as required by paragraph (3) of subdivision (a) of Section 8205.

(l) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(m) Violation of Section 8223.

(n) Failure to submit any remittance payable upon demand by the Secretary of State under this chapter or failure to satisfy any court-ordered money judgment, including restitution.

(o) Failure to secure the sequential journal of official acts, pursuant to Section 8206, or the official seal, pursuant to Section 8207.

(p) Violation of Section 8219.5.

§ 8214.15. Civil penalties

(a) In addition to any commissioning or disciplinary sanction, a violation of subdivision (f), (i), (l), (m), or (p) of Section 8214.1, or a willful violation of subdivision (d) of Section 8214.1, is punishable by a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(b) In addition to any commissioning or disciplinary sanction, a violation of subdivision (h), (j), or (k) of Section 8214.1, or a negligent violation of subdivision (d) of Section 8214.1, is punishable by a civil penalty not to exceed seven hundred fifty dollars (\$750).

(c) The civil penalty may be imposed by the Secretary of State if a hearing is not requested pursuant to Section 8214.3. If a hearing is requested, the hearing officer shall make the determination.

(d) Any civil penalties collected pursuant to this section shall be transferred to the General Fund. It is the intent of the Legislature that to the extent General Fund moneys are raised by penalties collected pursuant to this section, that money should be made available to the Secretary of State's office to defray its costs of investigating and pursuing commissioning and monetary remedies for violations of the notary public law.

§ 8214.2. Fraud relating to deed of trust; single-family residence; felony

A notary public who knowingly and willfully with intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence

containing not more than four dwelling units, with knowledge that the deed of trust contains any false statements or is forged in whole or in part, is guilty of a felony.

§ 8214.3. Hearing prior to denial or revocation of commission or imposition of civil penalties; law governing; exceptions

Prior to a revocation or suspension pursuant to this chapter or after a denial of a commission, or prior to the imposition of a civil penalty, the person affected shall have a right to a hearing on the matter and the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, except that a person shall not have a right to a hearing after a denial of an application for a notary public commission in either of the following cases:

(a) The Secretary of State has, within one year previous to the application, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, denied or revoked the applicant's application or commission.

(b) The Secretary of State has entered an order pursuant to Section 8214.4 finding that the applicant has committed or omitted acts constituting grounds for suspension or revocation of a notary public's commission.

§ 8214.4. Resignation or expiration of commission not a bar to investigation or disciplinary proceedings

Notwithstanding this chapter or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, if the Secretary of State determines, after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, that any notary public has committed or omitted acts constituting grounds for suspension or revocation of a notary public's commission, the resignation or expiration of the notary public's commission shall not bar the Secretary of State from instituting or continuing an investigation or instituting disciplinary proceedings. Upon completion of the disciplinary proceedings, the Secretary of State shall enter an order finding the facts and stating the conclusion that the facts would or would not have constituted grounds for suspension or revocation of the commission if the commission had still been in effect.

§ 8214.5. Revocation of commission; filing copy with county clerk

Whenever the Secretary of State revokes the commission of any notary public, the Secretary of State shall file with the county clerk of the county in which the notary public's principal place of business is located a copy of the revocation. The county clerk shall note such revocation and its date upon the original record of such certificate.

§ 8216. Release of surety

When a surety of a notary desires to be released from responsibility on account of future acts, the release shall be pursuant to Article 11 (commencing with Section 996.110), and not by cancellation or withdrawal pursuant to Article 13 (commencing with Section 996.310), of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure. For this purpose the surety shall make application to the superior court of the county in which the notary public's principal place of business is located and the copy of the application and notice of hearing shall be served on the Secretary of State as the beneficiary.

§ 8219.5. Advertising in language other than English; posting of notice relating to legal advice and fees; translation of notary public into Spanish; suspension

(a) Every notary public who is not an attorney who advertises the services of a notary public in a language other than English by signs or other means of written communication, with the exception of a single desk plaque, shall post with that advertisement a notice in English and in the other language which sets forth the following:

(1) This statement: I am not an attorney and, therefore, cannot give legal advice about immigration or any other legal matters.

(2) The fees set by statute which a notary public may charge.

(b) The notice required by subdivision (a) shall be printed and posted as prescribed by the Secretary of State.

(c) Literal translation of the phrase “notary public” into Spanish, hereby defined as “notario publico” or “notario,” is prohibited. For purposes of this subdivision, “literal translation” of a word or phrase from one language to another means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language which is being translated.

(d) The Secretary of State shall suspend for a period of not less than one year or revoke the commission of any notary public who fails to comply with subdivision (a) or (c). However, on the second offense the commission of such notary public shall be revoked permanently.

§ 8220. Rules and regulations

The Secretary of State may adopt rules and regulations to carry out the provisions of this chapter.

The regulations shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3).

§ 8221. Destruction, defacement or concealment of records or papers; misdemeanor; liability for damages

If any person shall knowingly destroy, deface, or conceal any records or papers belonging to the office of a notary public, such person shall be guilty of a misdemeanor and be liable in a civil action for damages to any person injured as a result of such destruction, defacing, or concealment.

§ 8222. Injunction; reimbursement for expenses

(a) Whenever it appears to the Secretary of State that any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or any rule or regulation prescribed under the authority thereof, the Secretary of State may apply for an injunction, and upon a proper showing, any court of competent jurisdiction has power to issue a permanent or temporary injunction or restraining order to enforce the provisions of this chapter, and any party to the action has the right to prosecute an appeal from the order or judgment of the court.

(b) The court may order a person subject to an injunction or restraining order provided for in this section to reimburse the Secretary of State for expenses incurred in the investigation related to the petition. The Secretary of State shall refund any amount received as reimbursement should the injunction or restraining order be dissolved by an appellate court.

§ 8223. Notary public with expertise in immigration matters; advertising status as notary public; entry of information on forms; fee limitations

(a) No notary public who holds himself or herself out as being an immigration specialist, immigration consultant or any other title or description reflecting an expertise in immigration matters shall advertise in any manner whatsoever that he or she is a notary public.

(b) A notary public qualified and bonded as an immigration consultant under Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code may enter data, provided by the client, on immigration forms provided by a federal or state agency. The fee for this service shall not exceed ten dollars (\$10) per individual for each set of forms. If notary services are performed in relation to the set of immigration forms, additional fees may be collected pursuant to Section 8211. This fee limitation shall not apply to an attorney, who is also a notary public, who is rendering professional services regarding immigration matters.

(c) Nothing in this section shall be construed to exempt a notary public who enters data on an immigration form at the direction of a client, or otherwise performs the services of an immigration consultant, as defined by Section 22441 of the Business and Professions Code,

from the requirements of Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code. A notary public who is not qualified and bonded as an immigration consultant under Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code may not enter data provided by a client on immigration forms nor otherwise perform the services of an immigration consultant.

§ 8224. Conflict of interest; financial or beneficial interest in transaction; exceptions

A notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction.

For purposes of this section, a notary public has a direct financial or beneficial interest in a transaction if the notary public:

(a) With respect to a financial transaction, is named, individually, as a principal to the transaction.

(b) With respect to real property, is named, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee, to the transaction.

For purposes of this section, a notary public has no direct financial or beneficial interest in a transaction where the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow, or lender for a person having a direct financial or beneficial interest in the transaction.

§ 8224.1. Writings, depositions or affidavits of notary public; prohibitions against proof or taking by that notary public

A notary public shall not take the acknowledgment or proof of instruments of writing executed by the notary public nor shall depositions or affidavits of the notary public be taken by the notary public.

§ 8225. Improper notarial acts, solicitation, coercion or influence of performance; misdemeanor

Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing such act to be an improper notarial act shall be guilty of a misdemeanor.

§ 8227.1. Unlawful acts by one not a notary public; misdemeanor

It shall be a misdemeanor for any person who is not a duly commissioned, qualified, and acting notary public for the State of California to do any of the following:

(a) Represent or hold himself or herself out to the public or to any person as being entitled to act as a notary public.

(b) Assume, use or advertise the title of notary public in such a manner as to convey the impression that the person is a notary public.

(c) Purport to act as a notary public.

§ 8227.3. Unlawful acts by one not a notary public; deeds of trust on single-family residences; felony

Any person who is not a duly commissioned, qualified, and acting notary public who does any of the acts prohibited by Section 8227.1 in relation to any document or instrument affecting title to, placing an encumbrance on, or placing an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, is guilty of a felony.

§ 8228. Enforcement of chapter; examination of notarial books, records, etc.

The Secretary of State may enforce the provisions of this chapter through the examination of a notary public's books, records, letters, contracts, and other pertinent documents relating to the official acts of the notary public.

§ 8230. Identification of affiant; verification

If a notary public executes a jurat and the statement sworn or subscribed to is contained in

a document purporting to identify the affiant, and includes the birthdate or age of the person and a purported photograph or finger or thumbprint of the person so swearing or subscribing, the notary public shall require, as a condition to executing the jurat, that the person verify the birthdate or age contained in the statement by showing either:

- (a) A certified copy of the person's birth certificate, or
- (b) An identification card or driver's license issued by the Department of Motor Vehicles.

For the purposes of preparing for submission of forms required by the United States Immigration and Naturalization Service, and only for such purposes, a notary public may also accept for identification any documents or declarations acceptable to the United States Immigration and Naturalization Service.

* * *

§ 1360. Necessity of taking constitutional oath

Unless otherwise provided, before any officer enters on the duties of his office, he shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution of California.

§ 1362. Administration by authorized officer

Unless otherwise provided, the oath may be taken before any officer authorized to administer oaths.

§ 6100. Performance of services; officers; notaries public

Officers of the state, or of a county or judicial district, shall not perform any official services unless upon the payment of the fees prescribed by law for the performance of the services, except as provided in this chapter.

This section shall not be construed to prohibit any notary public, except a notary public whose fees are required by law to be remitted to the state or any other public agency, from performing notarial services without charging a fee.

§ 6107. Veterans

(a) No public entity, including the state, a county, city, or other political subdivision, nor any officer or employee thereof, including notaries public, shall demand or receive any fee or compensation for doing any of the following:

(1) Recording, indexing, or issuing certified copies of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States.

(2) Furnishing a certified copy of, or searching for, any public record that is to be used in an application or claim for a pension, allotment, allowance, compensation, insurance (including automatic insurance), or any other benefits under any act of Congress for service in the Armed Forces of the United States or under any law of this state relating to veterans' benefits.

(3) Furnishing a certified copy of, or searching for, any public record that is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration.

(4) Rendering any other service in connection with an application or claim referred to in paragraph (2) or (3).

(b) A certified copy of any record referred to in subdivision (a) may be made available only to one of the following:

(1) The person who is the subject of the record upon presentation of proper photo identification.

(2) A family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record.

(3) A county office that provides veteran's benefits services upon written request of that office.

(4) A United States official upon written request of that official. A public officer or employee is liable on his or her official bond for failure or refusal to render the services.

§ 6108. Oaths of office; claim against counties

No officer of a county or judicial district shall charge or receive any fee or compensation for administering or certifying the oath of office or for filing or swearing to any claim or demand against any county in the State.

§ 6109. Receipt of fees; written account; officer liability

Every officer of a county or judicial district, upon receiving any fees for official duty or service, may be required by the person paying the fees to make out in writing and to deliver to the person a particular account of the fees. The account shall specify for what the fees, respectively, accrued, and the officer shall receipt it. If the officer refuses or neglects to do so when required, he is liable to the person paying the fees in treble the amount so paid.

§ 6110. Performance of services following payment; officer liability

Upon payment of the fees required by law, the officer shall perform the services required. For every failure or refusal to do so, the officer is liable upon his official bond.

§ 6203. False certificate or writing by officer

Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he makes and delivers as true any certificate or writing containing statements which he knows to be false.

§ 6707. Last day for filing an instrument

When the last day for filing any instrument or other document with a state agency falls upon a Saturday or holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

§ 6800. Computation of time in which act is to be done

The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.

§ 27287. Acknowledgment of execution or proof by subscribing witness required before recording; exceptions

* * * before an instrument can be recorded its execution shall be acknowledged by the person executing it, or if executed by a corporation, by its president or secretary or other person executing it on behalf of the corporation, or, except for any quitclaim deed or grant deed other than a trustee's deed or a deed of reconveyance, mortgage, deed of trust, or security agreement, proved by subscribing witness or as provided in Sections 1198 and 1199 of the Civil Code, and the acknowledgment or proof certified as prescribed by law.

§ 66433. Content and form; application of article

The content and form of final maps shall be governed by the provisions of this article.

§ 66436. Statement of consent; necessity; exceptions; nonliability for omission of signature; notary acknowledgment

(a) A statement, signed and acknowledged by all parties having any record title interest in the subdivided real property, consenting to the preparation and recordation of the final map is required, * * *

* * *

(c) A notary acknowledgment shall be deemed complete for recording without the official seal of the notary, so long as the name of the notary, the county of the notary's principal place of business, and the notary's commission expiration date are typed or printed below or immediately adjacent to the notary's signature in the acknowledgment.

CIVIL CODE**§ 14. Words and phrases; construction; tense; gender; number**

* * * signature or subscription includes mark, when the person cannot write, his name being written near it, by a person who writes his own name as a witness; provided, that when a signature is by mark it must in order that the same may be acknowledged or may serve as the signature to any sworn statement be witnessed by two persons who must subscribe their own names as witnesses thereto. * * *

§ 1181. Notaries public; officers before whom proof or acknowledgment may be made

The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected or appointed, before either:

- (a) A clerk of a superior court.
- (b) A county clerk.
- (c) A court commissioner.
- (d) A retired judge of a municipal or justice court.
- (e) A district attorney.
- (f) A clerk of a board of supervisors.
- (g) A city clerk.
- (h) A county counsel.
- (i) A city attorney.
- (j) Secretary of the Senate.
- (k) Chief Clerk of the Assembly.

§ 1183.5. Notarial acts

Armed forces. Any officer on active duty or performing inactive-duty training in the armed forces having the general powers of a notary public pursuant to Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632 and 101-510) and any successor statutes may perform all notarial acts for any person serving in the armed forces of the United States, wherever he or she may be, or for any spouse of a person serving in the armed forces, wherever he or she may be, or for any person eligible for legal assistance under laws and regulations of the United States, wherever he or she may be, for any person serving with, employed by, or accompanying such armed forces outside the United States and outside the Canal Zone, Puerto Rico, Guam and the Virgin Islands, and any person subject to the Uniform Code of Military Justice outside of the United States.

Statement of place of execution; seal or authentication of certificate. Any instrument acknowledged by any such officer or any oath or affirmation made before such officer shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No seal or authentication of the officer's certificate of acknowledgment or of any jurat signed by him or her shall be required but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in a form authorized by the laws of this state or in the following form:

On this the _____ day of _____, 19____, before me _____, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be (a) serving in the armed forces of the United States, (b) a spouse of a person serving in the armed forces of the United States, or (c) a person serving with, employed by, or accompanying the armed forces of the United States outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands, and to be the person whose name is subscribed to the within instrument and acknowledged that he or she executed the same.

And the undersigned does further certify that he or she is at the date of this certificate a commissioned officer of the armed forces of the United States having the general powers of a notary public under the provisions of Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632 and 101-510).

Signature of officer, rank, branch of service and capacity in which signed.

Jurat; form. To any affidavit subscribed and sworn to before such officer there shall be attached a jurat substantially in the following form:

Subscribed and sworn to before me on this _____ day of _____, 19____.

Signature of officer, rank, branch of service and capacity in which signed.

Recitals and evidence. The recitals contained in any such certificate or jurat shall be prima facie evidence of the truth thereof, and any certificate of acknowledgment, oath or affirmation purporting to have been made by any commissioned officer of the Army, Air Force, Navy, Marine Corps or Coast Guard shall, notwithstanding the omission of any specific recitals therein, constitute presumptive evidence of the existence of the facts necessary to authorize such acknowledgment, oath or affirmation to be taken by the certifying officer pursuant to this section.

§ 1185. Acknowledgments; requisites

(a) The acknowledgment of an instrument shall not be taken unless the officer taking it personally knows, or has satisfactory evidence that the person making the acknowledgment is, the individual who is described in and who executed the instrument.

(b) For purposes of this article, “personally knows” means having an acquaintance, derived from association with the individual in relation to other people and based upon a chain of circumstances surrounding the individual, which establishes the individual’s identity with at least reasonable certainty.

(c) For the purposes of this section “satisfactory evidence” means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be and any one of the following:

(1) The oath or affirmation of a credible witness personally known to the officer that the person making the acknowledgment is personally known to the witness and that each of the following are true:

(A) The person making the acknowledgment is the person named in the document.

(B) The person making the acknowledgment is personally known to the witness.

(C) That it is the reasonable belief of the witness that the circumstances of the person making the acknowledgment are such that it would be very difficult or impossible for that person to obtain another form of identification.

(D) The person making the acknowledgment does not possess any of the identification documents named in paragraphs (3) and (4).

(E) The witness does not have a financial interest in the document being acknowledged and is not named in the document.

(2) The oath or affirmation under penalty of perjury of two credible witnesses, whose identities are proven to the officer upon the presentation of satisfactory evidence, that each statement in paragraph (1) of this subdivision is true.

(3) Reasonable reliance on the presentation to the officer of any one of the following, if the document is current or has been issued within five years:

(A) An identification card or driver's license issued by the California Department of Motor Vehicles.

(B) A passport issued by the Department of State of the United States.

(4) Reasonable reliance on the presentation of any one of the following, provided that a document specified in subparagraphs (A) to (E), inclusive, shall either be current or have been issued within five years and shall contain a photograph and description of the person named on it, shall be signed by the person, shall bear a serial or other identifying number, and, in the event that the document is a passport, shall have been stamped by the United States Immigration and Naturalization Service:

(A) A passport issued by a foreign government.

(B) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the armed forces of the United States.

(E) An inmate identification card issued on or after January 1, 1988, by the Department of Corrections, if the inmate is in custody.

(F) An inmate identification card issued prior to January 1, 1988, by the Department of Corrections, if the inmate is in custody.

(d) An officer who has taken an acknowledgment pursuant to this section shall be presumed to have operated in accordance with the provisions of law.

(e) Any party who files an action for damages based on the failure of the officer to establish the proper identity of the person making the acknowledgment shall have the burden of proof in establishing the negligence or misconduct of the officer.

(f) Any person convicted of perjury under this section shall forfeit any financial interest in the document.

§ 1188. Certificate of acknowledgment

An officer taking the acknowledgment of an instrument shall endorse thereon or attach thereto a certificate substantially in the form prescribed in Section 1189.

§ 1189. Certificate of acknowledgment; form; sufficiency of out of state acknowledgment; force and effect of acknowledgment under prior laws

(a) Any certificate of acknowledgment taken within this state shall be in substantially the following form:

State of California }
 County of _____ }

On _____ before me, (here insert name and title of the officer), personally appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

(b) Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made.

(c) On documents to be filed in another state or jurisdiction of the United States, a California notary public may complete any acknowledgment form as may be required in that other state or jurisdiction on a document, provided the form does not require the notary to determine or certify that the signer holds a particular representative capacity or to make other determinations and certifications not allowed by California law.

(d) An acknowledgment provided prior to January 1, 1993, and conforming to applicable provisions of former Sections 1189, 1190, 1190a, 1190.1, 1191, and 1192, as repealed by Chapter 335 of the Statutes of 1990, shall have the same force and effect as if those sections had not been repealed.

§ 1190. Certificate of acknowledgment as prima facie evidence; duly authorized person

The certificate of acknowledgment of an instrument executed on behalf of an incorporated or unincorporated entity by a duly authorized person in the form specified in Section 1189 shall be prima facie evidence that the instrument is the duly authorized act of the entity named in the instrument and shall be conclusive evidence thereof in favor of any good faith purchaser, lessee, or encumbrancer. "Duly authorized person," with respect to a domestic or foreign corporation, includes the president, vice president, secretary, and assistant secretary of the corporation.

§ 1193. Certificate of acknowledgment; authentication

Officers taking and certifying acknowledgments or proof of instruments for record, must authenticate their certificates by affixing thereto their signatures, followed by the names of their offices; also, their seals of office, if by the laws of the State or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

§ 1195. Proof of execution; methods; certificate form

(a) Proof of the execution of an instrument, when not acknowledged, may be made any of the following:

1. By the party executing it, or either of them.
2. By a subscribing witness.
3. By other witnesses, in cases mentioned in Section 1198.

(b) Proof of the execution of a grant deed, mortgage, deed of trust, quitclaim deed, or security agreement is not permitted pursuant to Section 27287 of the Government Code, though proof of the execution of a trustee's deed or deed of reconveyance is permitted.

(c) Any certificate for proof of execution taken within this state may be in the following form, although the use of other, substantially similar forms is not precluded:

State of California }
County of _____ } ss.

On _____ (date), before me, the undersigned, a notary public for the state, personally appeared _____ (subscribing witness's name), personally known to me (or proved to me on the oath of _____ [credible witness's name], who is personally known to me) to be the person whose name is subscribed to the within instrument, as a witness thereto, who, being by me duly sworn, deposed and said that he/she was present and saw _____ (name[s] of principal[s]), the same person(s) described in and whose name(s) is/are subscribed to the within and annexed instrument in his/her/their authorized capacity(ies) as (a) party (ies) thereto, execute the same, and that said affiant subscribed his/her name to the within instrument as a witness at the request of _____ (name[s] of principal[s]).

WITNESS my hand and official seal.

Signature _____ (Seal)

§ 1196. Subscribing witness; establishment of identity

If by a subscribing witness, that witness shall be personally known to the officer taking the proof to be the person whose name is subscribed to the instrument as a witness, or shall be proved to be such by the oath of a credible witness who is personally known to the officer taking the proof, as defined in subdivision (b) of Section 1185.

§ 1197. Subscribing witness; items to be proved

The subscribing witness must prove that the person whose name is subscribed to the instrument as a party is the person described in it, and that such person executed it, and that the witness subscribed his name thereto as a witness.

§ 1633.11 Notarization and signature under penalty of perjury requirements

(a) If a law requires that a signature be notarized, the requirement is satisfied with respect to an electronic signature if an electronic record includes, in addition to the electronic signature to be notarized, the electronic signature of a notary public together with all other information required to be included in a notarization by other applicable law.

* * *

§ 1633.12 Retaining records; electronic satisfaction

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record, if the electronic record reflects accurately the information set forth in the record at the time it was first generated in its final form as an electronic record or otherwise, and the electronic record remains accessible for later reference.

(b) A requirement to retain a record in accordance with subdivision (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subdivision (a) by using the services of another person if the requirements of subdivision (a) are satisfied.

(d) If a law requires a record to be retained in its original form, or provides consequences if the record is not retained in its original form, that law is satisfied by an electronic record retained in accordance with subdivision (a).

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subdivision (a).

(f) A record retained as an electronic record in accordance with subdivision (a) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law

enacted after the effective date of this title specifically prohibits the use of an electronic record for a specified purpose.

(g) This section does not preclude a governmental agency from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

CODE OF CIVIL PROCEDURE

§ 1935. Subscribing witness defined

A subscribing witness is one who sees a writing executed or hears it acknowledged, and at the request of the party thereupon signs his name as a witness.

§ 2093. Officers authorized to administer oaths or affirmations

(a) Every court, every judge, or clerk of any court, every justice, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths or affirmations.

(b) (1) Every shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths or affirmations and may perform the duties of the deposition officer pursuant to Section 2025. The certified shorthand reporter shall be entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(2) This subdivision shall also apply to depositions taken by telephone or other remote electronic means as specified in Sections 2017 and 2025.

(c) A former judge or justice of a court of record in this state who retired or resigned from office, other than a judge or justice who was retired by the Supreme Court for disability, shall have the power to administer oaths or affirmations, if the former judge or justice requests and receives a certification from the Commission on Judicial Performance that there was no formal disciplinary proceeding pending at the time of retirement or resignation. Where no formal disciplinary proceeding was pending at the time of retirement or resignation, the Commission on Judicial Performance shall issue the certification.

No law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall be construed to prohibit the Commission on Judicial Performance from issuing a certificate as provided for in this section.

§ 2094. Oath to witness; form

(a) An oath, affirmation, or declaration in an action or a proceeding, may be administered by obtaining an affirmative response to one of the following questions:

(1) "Do you solemnly state that the evidence you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth, so help you God?"

(2) "Do you solemnly state, under penalty of perjury, that the evidence that you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth?"

* * *

BUSINESS AND PROFESSIONS CODE

§ 22441. Definitions; violations

(a) A person engages in the business or acts in the capacity of an immigration consultant when that person gives nonlegal assistance or advice on an immigration matter. That assistance or advice includes, but is not limited to, the following:

(1) Completing a form provided by a federal or state agency but not advising a person as to their answers on those forms.

(2) Translating a person's answers to questions posed in those forms.

(3) Securing for a person supporting documents, such as birth certificates, which may be necessary to complete those forms.

(4) Submitting completed forms on a person's behalf and at their request to the United States Citizenship and Immigration Services.

(5) Making referrals to persons who could undertake legal representation activities for a person in an immigration matter.

(b) "Immigration matter" means any proceeding, filing, or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Citizenship and Immigration Services, the United States Department of State, or the United States Department of Labor.

(c) "Compensation" means money, property, or anything else of value.

(d) Every person engaged in the business or acting in the capacity of an immigration consultant shall only offer nonlegal assistance or advice in an immigration matter as defined in subdivision (a). Any act in violation of subdivision (a) is a violation of this chapter.

§ 22442.2. Posted notice; required information; written disclosure

(a) An immigration consultant shall conspicuously display in his or her office a notice that shall be at least 12 by 20 inches with boldface type or print with each character at least one inch in height and width in English and in the native language of the immigration consultant's clientele that contains the following information:

(1) The full name, address, and evidence of compliance with any applicable bonding requirement including the bond number, if any.

(2) A statement that the immigration consultant is not an attorney.

(3) The services that the immigration consultant provides and the current and total fee for each service.

(4) The name of each immigration consultant employed at each location.

(b) Prior to providing any services, an immigration consultant shall provide the client with a written disclosure in the native language of the client that shall include the following information:

(1) The immigration consultant's name, address, and telephone number.

(2) The immigration consultant's agent for service of process.

(3) The legal name of the employee who consulted with the client, if different from the immigration consultant.

(4) Evidence of compliance with any applicable bonding requirement, including the bond number, if any.

* * *

§ 22442.3. Literal translations; misleading use in documents; bonding requirements

An immigration consultant shall not, with the intent to mislead, literally translate, from English into another language, the words or titles, including, but not limited to, "notary public," "notary," "licensed," "attorney," "lawyer," or any other terms that imply that the person is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the immigration consultant.

(b) For purposes of this section, "literal translation" of a word or phrase from one language means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(c) An immigration consultant may not make or authorize the making of any verbal or written references to his or her compliance with the bonding requirements of Section 22443.1 except as provided in this chapter.

ELECTIONS CODE

§ 8080. Fee for verification

No fee or charge shall be made or collected by any officer for verifying any nomination document or circulator's affidavit.

COMMERCIAL CODE

§ 3505. Protest; Noting for Protest

* * *

(b) A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest shall identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

PROBATE CODE

§ 4307. Certified copies of power of attorney

(a) A copy of a power of attorney certified under this section has the same force and effect as the original power of attorney.

(b) A copy of a power of attorney may be certified by any of the following:

- (1) An attorney authorized to practice law in this state.
- (2) A notary public in this state.
- (3) An official of a state or of a political subdivision who is authorized to make certifications.

(c) The certification shall state that the certifying person has examined the original power of attorney and the copy and that the copy is a true and correct copy of the original power of attorney.

(d) Nothing in this section is intended to create an implication that a third person may be liable for acting in good faith reliance on a copy of a power of attorney that has not been certified under this section.

PENAL CODE**§ 17. Felony; misdemeanor; infraction; classification of offenses**

(a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions. * * *

§ 115.5. Filing false or forged documents relating to single-family residences; punishment; false statement to notary public

(a) Every person who files any false or forged document or instrument with the county recorder which affects title to, places an encumbrance on, or places an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the document is false or forged, is punishable, in addition to any other punishment, by a fine not exceeding seventy-five thousand dollars (\$75,000).

(b) Every person who makes a false sworn statement to a notary public, with knowledge that the statement is false, to induce the notary public to perform an improper notarial act on an instrument or document affecting title to, or placing an encumbrance on, real property consisting of a single-family residence containing not more than four dwelling units is guilty of a felony.

§ 118. Perjury defined; evidence necessary to support conviction

(a) Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

(b) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.

§ 126. Punishment

Perjury is punishable by imprisonment in the state prison for two, three or four years.

§ 830.3. Peace officers; employing agencies; authority

The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. * * *

(c) Investigators of the office of the Secretary of State designated by the Secretary of State, provided that the primary duty of these peace officers shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of, and Section 12172.5 of, the Government Code. * * *

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