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Debra Bowen  
California Secretary of State  
**Notary News**

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California notaries public perform valuable services for the legal, business, financial, and real estate communities. The California Secretary of State relies on notaries public to perform their duties with honesty and integrity on behalf of the people of California.

Thank you for your continued dedication and public service.

**New Laws**

Four notary-related laws took effect January 1, 2014. Here is a brief overview of what California notaries public need to know in the new year.

- California Civil Code section 1185 was amended to make an inmate identification card an allowable form of identification if the card is current or has been issued within five years by the California Department of Corrections and Rehabilitation and the inmate is in custody in prison, whether or not the card includes a photograph, description, signature, or serial number.
- California Civil Code section 1188 was amended to require the use of the certificate of acknowledgment prescribed in Civil Code section 1189.
- California Civil Code section 1195 was amended to require the specified form to be used as a certificate for proof of execution by a subscribing witness and to amend the wording in the form.
- Section 22449 was added to the California Business and Professions Code to prohibit notaries public from participating in practices that amount to price gouging when providing services associated with filing an application under the federal deferred action for childhood arrivals program.

## Name Changes

If you change your name, California Government Code section 8213.6 requires you to complete a [name change application](#) and file it with the California Secretary of State.

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## Misuse of Seal or Title

A notary public cannot use the official seal or the title notary public for any purpose other than the rendering of notarial service. (California Government Code section 8207.)



Your official seal must be placed in its entirety on the same page as the notarial certificate. Do not place an impression of the seal on every page of a document or fan the pages of the document and place an impression of the seal across all pages.

It's your seal and your responsibility. Remember to lock your seal in a secure area to avoid misuse by someone else.

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## Certificate of Acknowledgment and Jurat Forms

California law requires a [certificate of acknowledgment](#) and [jurat](#) to have the language set forth in statute. (California Civil Code section 1189; California Government Code section 8202.) Forms with the correct language are on the Secretary of State website.

Secretary of State staff continue to discover notaries public who have used outdated forms or have failed to establish signers' identity by satisfactory evidence. It is critical that you use the exact wording as prescribed in current law when completing a certificate of acknowledgment or jurat. Failure to do so may subject you to civil penalties in an administrative action brought by the Secretary of State or a public prosecutor in superior court. (California Government Code section 8207.)

## Incomplete Documents

A notary public must refuse to notarize a signature on any incomplete document. (California Government Code section 8205.)

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## Address Changes

California Government Code section 8213.5 requires you to notify the California Secretary of State of changes in business or residence addresses. Complete an [address change form](#) and send it by certified mail within 30 days of the change. A notification of address change cannot be accepted by fax or email.

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## Correcting a Notarial Act

There are no provisions in the law that allow for the correction of a completed notarial act. If you discover an error in a notarial act after completing the act, then notarize the signature on the document again.

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## 2014 Notary Public Handbook

The [2014 Notary Public Handbook](#) is available online and in hard copy at no charge. Request a copy of the handbook by sending a self-addressed envelope (at least 6 inches by 9 inches in size) to the California Secretary of State, Notary Public & Special Filings Section, P.O. Box 942877, Sacramento, CA 94277-0001.

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## Processing Times

Check the Secretary of State website for daily updated [processing times](#) for notary public applications and authentication requests (apostille or certification).

## Notary Public Reference Information

The California Secretary of State offers a [Sample Workbook](#) with all the information a person is expected to know to pass the written notary public examination, including references to applicable laws. The Sample Workbook can also be used later as a reference tool for all notarial acts and procedures.

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### No Longer a Notary Public?

If a notary public resigns, is disqualified, or is removed from office, the notary journal and all other notarial records must be delivered to the county clerk in which the notary public's current oath is on file within 30 days.

If a notary public's commission expires and the notary public has not obtained reappointment within 30 days after the expiration of the commission, then the notary journal and other notarial records must be delivered to the county clerk within the next 30 days, even if a notary public has applied for reappointment.

Willful failure to deliver the notary journal and other notarial records to the county clerk within the appropriate time is a misdemeanor, and the notary public is personally liable for damages to any person injured by the non-delivery. (California Government Code section 8209(a).)

## No Notario Publico



Secretary of State investigators who travel throughout California find illegal storefronts and signs, such as those pictured above, are common in some regions. Notaries public cannot post any sign or distribute any advertisement that includes the Spanish translation "notario publico." Notaries public who advertise expertise in immigration matters cannot also advertise notary public services. A California notary public's commission can be suspended or revoked for such actions. Notaries public who post signs or distribute advertisements that do not comply with law should immediately remove them. (California Government Code sections 8219.5(c) and 8223(a).)

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### Did You Know?

Did you know a California notary public may countersign a deer or bear tag? California Fish and Game Code sections 4341 and 4755 allow a notary public to countersign these tags. If asked to countersign a deer or bear tag, just sign the tag and identify yourself on the tag as a notary public. No notarial wording is necessary. Do not affix your notary seal on the tag and do not collect a fee. However, you must record the act in your journal.

## Journaling – Just for the Record

A notary public journal is similar to a diary or a news report – a chronicle of what occurred and when. As a notary public you are required by law to chronicle your notarial events at all times. Are you recording every transaction in your journal? Review the checklist below as you inspect your own journal.

- *Date, time, type of each official act*

The time of the official act is probably the most frequently missed item in a notary public journal. The time of the official act must be recorded because the law requires it, and you may need this information as proof of an official act if your journal is audited. Remember that you may be asked to provide a copy of a line item in your journal, which is why each line item entry must be complete. You cannot use hash marks, ditto marks, arrows, or other shortcuts.

Some notaries public confuse the type of act with the type of document. These are not the same. The type of act is the form that a notary public uses, such as a certificate of acknowledgment or a jurat.

- *Character of each instrument*

Character formally refers to the type of document such as deed of trust, affidavit, deed of reconveyance, or power of attorney. By specifying the document, you are indicating whether a thumbprint must be captured. Words such as “loan docs” are too general and do not specify the character of the instrument according to California Government Code section 8206(a)(2)(B). When a notary public is performing several notarizations as part of a loan package, the notary public must identify each notarization (official act) performed. Recording one entry in a journal for all loan documents is not in compliance with California Government Code section 8206(a)(1).

- *Signature for each line item*

A signature could be critical in an investigation that includes handwriting analysis. Secretary of State investigators have found instances in which a signature is incorrectly captured only once on a diagonal line drawn through several line items in an attempt to show one person signed multiple documents. California Government Code section 8206(c) requires a signature for each line item.

- *Identity based on satisfactory evidence*

Another item that is frequently missing from a notary public journal is a statement regarding evidence of a person’s identity. If your journal has a box to indicate whether the identity of the person was established by satisfactory evidence, use it. Otherwise you must state how the identity of the person was established.

If identity was established by satisfactory evidence (California Civil Code section 1185), then the journal must 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 issuance or expiration of the document. If you are using a California driver’s license as

satisfactory evidence, you may simply record in the journal “CA DMV” as the governmental agency. If identity was established by the oaths or affirmations of two credible witnesses, then the journal must contain the type of documents identifying the witnesses, the identifying numbers, and the dates of issuance or expiration of the documents.

Always record a complete date (month, day, year) and note whether that is the issuance or expiration date. Identification documents must be current or issued within the past five years.

- *Fee charged*

Always record the appropriate fee charged for each official act that is performed. To review the fees that a notary public may charge, refer to California Government Code section 8211. If you do not charge a fee, indicate this by writing “0” or “no fee.”

- *Thumbprint*

A thumbprint can be beneficial in further confirming a person’s identity – valuable evidence for investigators and attorneys. If the document to be notarized is a deed, quitclaim deed, deed of trust, or other document affecting real property, or a power of attorney document, the person signing the document must place his or her right thumbprint in the journal.

If the right thumb is not available, the signing party must use any available finger, and the notary public must indicate this difference in the journal. If the signer is physically unable to provide a fingerprint, the notary public must indicate this in the journal and provide an explanation of the physical condition.

Whatever the make or model of your notary public journal, use common sense. Always be sure to capture the information before performing the notarization. Keeping a journal is not difficult, but maintaining it “by the book” takes diligence. It’s your notary public life history!



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*Notary News* is designed to advise California’s notaries public of changes in the law, current state policies and procedures, and other information of interest.

**Secretary of State  
Notary Public & Special Filings Section**  
1500 11<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Sacramento, CA 95814  
Phone: (916) 653-3595

**Email Address**  
[notaries@sos.ca.gov](mailto:notaries@sos.ca.gov)

**Web Address**  
[www.sos.ca.gov/business/notary](http://www.sos.ca.gov/business/notary)

**Mailing Address**  
P.O. Box 942877  
Sacramento, CA 94277-0001

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[RegisterToVote.ca.gov](http://RegisterToVote.ca.gov)

