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# 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

One notary-related revision to the law took effect January 1, 2016. Here is a brief overview of the new revision.

California Civil Code section 1185, which provides the specific forms of identification that can be used by an individual or credible witness appearing before a notary public, was amended to add inmate identification that is current or has been issued within five years by a sheriff's department if the inmate is in custody in a county detention facility as an allowable form of identification for proof of the identity of an individual or a credible witness who executes a written instrument.

## 2016 Handbook

The [2016 Notary Public Handbook](#) soon will be available online and in hard copy at no charge. Request a copy of the 2016 Notary Public Handbook by sending a self-addressed envelope (at least 6" by 9" in size) to the California Secretary of State, Notary Public & Special Filings Section, P.O. Box 942877, Sacramento, CA 94277-0001.

## 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 be used as a reference tool for all notarial acts and procedures.

## Satisfactory Evidence: Identification

The two of the most important words in a notary public's vocabulary are "satisfactory evidence." Most notarial acts relate to another person signing or certifying a document. The law is very specific as to how a notary public is required to certify to the identity of the signer: The notary public must rely on satisfactory evidence.

"Satisfactory Evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the individual is not the individual he or she claims to be. "Satisfactory Evidence" also means (A) identification documents or (B) the oath of a single credible witness or (C) the oaths of two credible witnesses under penalty of perjury.

The review of identification documents is the most common way a notary public can certify to the identity of the signer. New to the notary public law this year is the addition of inmate identification issued by a sheriff's office as an acceptable form of identification if the person is in custody at a county detention facility. As with all forms of identification, the inmate identification only may be used if the notary public can reasonably rely on one of the forms of identification listed below, provided it is current and has been issued within the last five years. The following are the acceptable forms of identification to be reviewed by a notary public to identify an individual appearing before the notary public:

- An identification card or driver's license issued by the California Department of Motor Vehicles
- A passport issued by the Department of State of the United States
- An inmate identification card issued by the California Department of Corrections and Rehabilitation, if the inmate is in custody in prison
- An inmate identification issued by a sheriff's office if the person is in custody at a county detention facility
- Reasonable reliance on the presentation of any one of the following, provided that the identification is either current or has been issued within five years, contains a photograph and description of the person named on it, is signed by the person, and has a serial or other identifying number:
  - o A passport issued by a foreign government stamped by the United States Citizenship and Immigration Services of the Department of Homeland Security
  - o An identification card issued by a state other than California
  - o An identification card issued by any branch of the Armed Forces of the United States (caution: current military identification cards might not contain all the required information)
  - o An employment identification card issued by an agency or office of the State of California, or by an agency or office of a city, county, or city and county in this state.

**Reminder:** Social security cards, student identification, consular identification cards, visas, and voter registration cards, to name a few, are not acceptable forms of identification and cannot be used for notarial purposes.

Notaries public should be as cautious as possible when inspecting identification and record all information in the notary public journal as required by law. A notary public who has evidence that a crime has been committed should contact the appropriate law enforcement agency. Additional information and resources for notaries public are available at [www.sos.ca.gov/notary](http://www.sos.ca.gov/notary).

## **The Notary Public Oath**

Once a notary public commission has been issued, a person appointed a notary public has 30 calendar days from the beginning of the term prescribed in the commission to take, subscribe, and file an oath of office and file a \$15,000 surety bond with the county clerk of the county within which the person maintains a principal place of business. California Government Code 8213 does not provide for any extension of this 30-day period.

When a notary public files his/her oath of office and bond by mail, any California notary public can administer the oath of office provided that the oath of office is administered in the county that is listed on the new notary public's commission, as printed on the top of the oath of office form.

The signature, and how it appears on the notary public oath of office filed with the county clerk's office, constitutes the official signature of the notary public. The oath of office states below the signature that "This signature must be used by you in signing ALL notarized documents." The signature of the notary public cannot be changed unless the notary public's name has changed or if the notary public moves to another county and a new oath of office and a copy of the original bond have been filed with the new county.

Notaries public can only file their oath of office and bond in the county listed on their notary public application, as printed on the top of the oath of office form. If the business address of a notary public has changed to a new county after submitting their application to the Secretary of State's office, within the 30 days after the commission has been issued, the person appointed as a notary public still must file their oath of office and bond with the county clerk of the county within which the person maintains a principal place of business as entered on their notary public application. The notary public cannot file in the new 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. If the address of a notary public's principal place of business changes from one county to another, although not required, the notary public may take and file a new oath of office and a copy of the original bond in the county where the new business address is located. If the notary public decides to make a new filing, within 30 days of filing the notary public must obtain a new official seal that indicates the name of the new county where the notary public has relocated.

If a notary public changes his or her name, then the notary public must complete and send a Notary Public Name Change form to the Secretary of State. There is no fee charged for updating a notary public's name. Once approved, an amended commission will be issued reflecting the new notary public's new name. Within 30 days from the date the amended commission was issued, the notary public must file a new oath of office and an amended bond with the county clerk of the county in which the principal place of business is located. Once the amended oath and bond are filed, the notary public may no longer use the commission, including the stamp that was issued in the notary public's previous name.

## **Processing Times**

Check the Secretary of State website for regularly updated [processing times](#) for notary public applications and authentication requests (Apostille or Certification).

## **Immigration Documents**

A notary public can notarize the signature on a document affecting the immigration or citizenship status of any person; however, under current law, a notary public who is not also an immigration consultant may not do the verification tasks in connection with completing immigration forms because this activity is prohibited by the broad language of California Government Code section 8223. Only an attorney, a representative accredited by the U.S. Department of Justice, or a person who is registered by the California Secretary of State and bonded as an immigration consultant under the California Business and Professions Code section 22441 may assist a client in completing immigration forms. Additional information concerning immigration consultants, including the offering of nonlegal assistance or advice on immigration matters, the qualifications to act as an immigration consultant and the requirements of an immigration consultant can be found in California Business and Professions Code section 22440 et seq.

The I-9 Federal Employment Verification Form is an immigration document in that it covers both citizens and noncitizens and also requires the employer or authorized representative to record and verify data. The duties of an immigration consultant cover these tasks too. Even if a notary public is functioning in a non-notarial capacity and does not use the phrase “notary public,” a notary public who is not an immigration consultant as well is prohibited from completing the I-9 Federal Employment Verification Form.

A notary public acting only in the capacity of a notary public may notarize the signature(s) on the I-9 Federal Employment Verification Form. Unless a notary public is qualified and bonded as an immigration consultant, a notary public may not enter data provided by a customer on an immigration form or provide the services of an immigration consultant.

There are special rules that apply to notaries public who are also immigration consultants, or advertise their services in a language other than English. A notary public is barred from advertising in any manner whatsoever that he or she is a notary public if the notary public also promotes himself or herself as an immigration specialist or consultant. (California Government Code section 8223.)

## **Notario Publico**

Notaries public cannot post any sign, distribute any advertisement or use the words “notario publico” or “notario.” 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 the signs or advertisements. (California Government Code sections 8219.5(c) and 8223(a).) A first offense for a violation of this law is grounds for the suspension of the notary public’s commission for not less than one year, or revocation of a notary public’s commission. A second offense is grounds for the permanent revocation of a notary public’s commission.

## **Remember to Notify the SOS of Changes!**

California Government Code section 8213.5 requires a notary public to notify the California Secretary of State of [changes in business or residence addresses](#). The notification must be made by certified mail within 30 days of the change. If you change your name, California

Government Code section 8213.6 requires you to complete a [Notary Public Name Change](#) form and file that form with the California Secretary of State.

## **Fingerprint Requirement**

All applicants must complete a background check, including those applicants applying for a notary public commission for the first time and notaries public seeking reappointment. One set of fingerprints must be submitted to the California Department of Justice (DOJ) for each notary public application. Applicants must have their fingerprints taken within one year of the exam date. Fingerprints taken for any purpose other than appointment as a notary public cannot be used for this requirement.

A notary public commission will only be issued when responses from the DOJ and the Federal Bureau of Investigation (FBI) are received. If the responses identify any criminal history, a notary public commission will not be issued until the criminal history is reviewed, evaluated, and found to be non-disqualifying.

For Live Scan locations and business hours see the Department of Justice's website at [ag.ca.gov/fingerprints/publications/contact.php](http://ag.ca.gov/fingerprints/publications/contact.php).

The Request for Live Scan Service form (PDF) is available online at [notary.cdn.sos.ca.gov/forms/notary\\_livescan.pdf](http://notary.cdn.sos.ca.gov/forms/notary_livescan.pdf).

It is recommended that you request a copy of your Request for Live Scan Service form at the time you have your fingerprints taken and keep your copy of the form until you receive your notary public commission. The results of your Live Scan will be transmitted electronically to the Secretary of State by the Department of Justice.

## **The Use of a Notary Public Seal**

Every California notary public must have and use a seal purchased from a vendor or manufacturer authorized by the California Secretary of State. A notary public must use the seal solely for the purpose of carrying out the duties and responsibilities of a notary public. (California Government Code section 8207.)

A notarial certificate must be completed for every official act. Merely signing and stamping a document is not a notarial act, and stamping pages attached to the page with a completed notarial certificate is never permitted.

The seal of every notary public must be affixed by a seal press or stamp that will print or emboss a seal which can be photographically reproducible. Many documents that are acknowledged may later be submitted to a county for recording. The county recorder might not accept a document if the notary seal is illegible. All elements of the seal must be visible. The seal should not be placed over signatures or any printed matter on the document. If the seal impression is not clear, the notary public should affix a new impression and never attempt to fix the old one, even if this requires attaching a separate notarial certificate.

## **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 the signature on the document must be notarized again.

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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.

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