

ALABAMA NOTARY PUBLIC TRAINING COURSE

**DEVELOPED BY THE ALABAMA PROBATE JUDGES ASSOCIATION AND THE
ALABAMA LAW INSTITUTE**

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GENERAL INFORMATION

A notary should pay close attention to the details, because as a commissioned public official, notaries are acting under the general laws of the State of Alabama. The notary's primary function is to serve as an official, unbiased witness to the identity, the comprehension, and the intent of the person requesting the notarial act. This is why the person whose signature, oath or acknowledgement you are notarizing must appear before you when you perform the notarization.

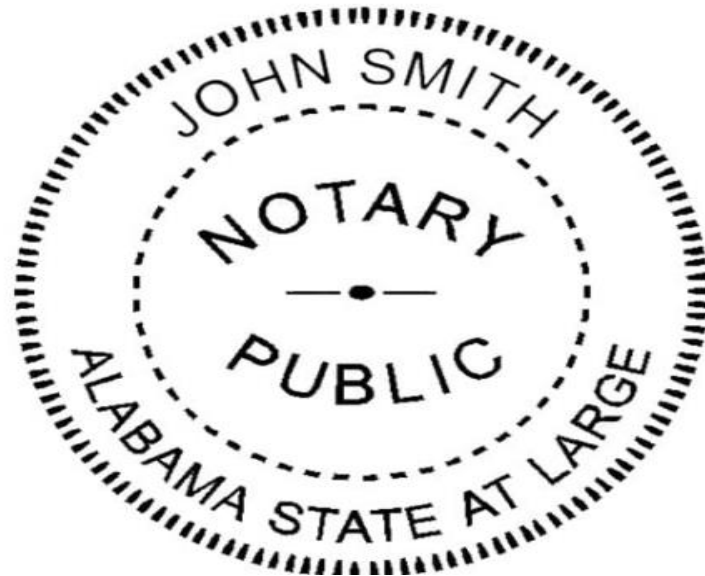
DUTIES OF A NOTARY

A notary public is under a duty to act, honestly, skillfully, and with reasonable diligence. Carelessness or negligence when performing a notarial act can result in the notary being held personally and/or criminally responsible for improper, negligent, or fraudulent actions. It is important to understand and follow Alabama's notary laws. Following these laws is your best insurance against losing your commission. Not to mention, breaking these laws can result in criminal and civil penalties.

Your notary commission will expire after four (4) years from the date of your commission. *It is a Class C misdemeanor to perform a notarial act with an expired, suspended, or restricted commission.*

THE NOTARY SEAL

To authenticate your official acts, each notary must have a seal of office, which must show by its impression or stamp, your name exactly as it appears on your commission, office, and the state in which you were appointed.



POWERS OF A NOTARY PUBLIC

A notary public is empowered to do the following:

- ▶ administer oaths to elected officials
- ▶ acknowledge signatures on legal documents

PROCESS FOR ADMINISTERING AN OATH OF OFFICE

A notary is authorized to administer an oath of office to an elected official. In order to properly administer an oath of office:

- ▶ the elected person should be physically present
- ▶ the notary must administer the correct oath of office to the elected official
- ▶ the elected official should sign the oath of office in the presence of the notary
- ▶ the notary public must sign, date, and affix their seal to the oath of office
- ▶ at least two (2) original oaths should be executed by the elected official and the notary so that one (1) can be provided to the correct public office

PROCESS FOR ACKNOWLEDGING A SIGNATURE

The form and content of each notarial act on an instrument to be recorded in the public records, including the court system, must include the following:

- ▶ an oath
- ▶ an acknowledgment
- ▶ a signature (or mark) of each party to the document
- ▶ the signature of the notary
- ▶ the notary's seal of office by either ink stamp or embossed impression

PLACE OF ACKNOWLEDGMENT

Any signature acknowledged by you as a notary public must be executed within the State of Alabama and in your physical presence unless utilizing two-way audio-video communication (to be discussed later).

IDENTIFICATION

Positive Identification can be made by any of the following:

- ▶ personal knowledge of the identity of the person appearing before you
- ▶ presentation of a photo identification issued by a governmental entity or agency such as a driver's license or passport
- ▶ Before you complete the notarization, make sure the person signing appears to be competent, has capacity to sign the document and is signing the document knowingly and voluntarily. You can refuse to perform the notarization if you do not believe the signer meets these requirements.

Only allow the person to sign after you have positively identified the person signing the document.

THE NOTARY JOURNAL

It is highly recommended but not required that you maintain a notary journal. If you are using a notary journal, now would be the suggested time to add the entry. You should include the following:

- ▶ the date and time of the notarization
- ▶ the type of notarial act performed
- ▶ a description of the document
- ▶ the type of identification used
- ▶ the fee charged
- ▶ the printed name and address of the signer
- ▶ the signer's signature

COMPLETING THE ACKNOWLEDGMENT

Finally, you will complete the notarization by signing your name and affixing your seal.

Your signature must match the name on your official notary stamp.

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FEES FOR NOTARIAL ACTS

You are permitted a “reasonable fee” not to exceed ten dollars (\$10.00) for each notarial act performed.

Please note that if you are a state, county, or municipal employee you may not charge a fee for any notarial act performed during your public service unless provided by law.

PROHIBITIONS AGAINST ACKNOWLEDGMENT

A notary may not perform an acknowledgment in any transaction where you have a pecuniary (relating to money) interest.

A notary should not take an acknowledgment, or a verification, or proof, or administer an oath or affirmation if the notary reasonably believes it to be false.

There is no prohibition in Alabama against notarizing documents for spouses or immediate family members. However, it is best practice not to do so as it can give rise to allegations of self-dealing.

SPECIAL CONSIDERATIONS WHEN AN INDIVIDUAL IS SIGNING ON BEHALF OF ANOTHER PERSON OR AN ENTITY

There will be times when a person requesting a notarization will be signing on behalf of another person or entity. In those situations, you need to verify their identity and verify the documentation that they have authority to sign on behalf of that person or entity.

OTHER SPECIAL CONSIDERATIONS REGARDING ACKNOWLEDGMENTS

It is important to remember, when a third party is signing on behalf of someone who is physically unable to sign, both the signer and the person whom they direct to sign their name must be physically present during the notarization.

OTHER SPECIAL CONSIDERATIONS REGARDING ACKNOWLEDGMENTS

Sometimes someone will bring you a document that has already been signed. In those situations, verbally confirm that it is their signature and verify their identity before notarizing. The notary acknowledgement should state that the individual “acknowledged” their signature in your presence not that the individual “signed” in your presence.

SPECIAL CONSIDERATIONS WHEN NOTARIZING ALABAMA MARRIAGE CERTIFICATES

- ▶ An Alabama marriage certificate should only be notarized when you and the individuals executing are physically present in Alabama.
- ▶ You must date the notarization the actual date the marriage certificate is signed in your presence, do not date retroactively or prospectively.
- ▶ Each signature should be individually notarized in the designated notary area for each signature.

SPECIAL CONSIDERATIONS WHEN NOTARIZING ALABAMA MARRIAGE CERTIFICATES

- ▶ Include the date your commission expires in the designated space.
- ▶ Each party should sign using their current legal name, not their married name.
- ▶ If the marriage certificate is handwritten, it should be legible.
- ▶ Be certain that each spouse signs in the correct block that matches their information. Spouse 1 should sign in Block 25, and spouse 2 should sign in Block 26.

SPECIAL CONSIDERATIONS WHEN NOTARIZING AN ALABAMA MARRIAGE CERTIFICATE WHERE A MINOR IS INVOLVED

- ▶ An individual under the age of eighteen (18) years old but at least sixteen (16) years of age, who has not been previously married, can execute a marriage certificate only if the parent/guardian executes the “Affidavit of Consent for Marriage of a Minor.”
- ▶ Be sure that the parent/guardian signs in the correct block that matches the minor’s information. For example, the parent/guardian of Spouse 1 would sign in Block 40 and you as the notary would sign in Block 46 and affix your seal to Block 44.

SPECIAL CONSIDERATIONS WHEN NOTARIZING LAST WILL AND TESTAMENTS

- ▶ It is very important that the self-proving form located at *Ala. Code* §43-8-132 (1975) be used when notarizing last will and testaments.
- ▶ Please note that you cannot notarize the will and act as a witness. If you do so, your attendance at court will be required in order for the will to be probated.
- ▶ Your seal must be affixed to the self-proving form portion of the will. Failure to do so may require attendance at court in order for the will to be probated.

APPEARANCE BY TWO-WAY AUDIO-VIDEO COMMUNICATION TECHNOLOGY

An individual may “personally appear” before you by use of two-way audio-video communication technology under the following circumstances:

- ▶ the communication technology must allow the notary and the signatory to communicate with each other simultaneously by sight and sound
- ▶ the notary must be physically located in Alabama
- ▶ the two-way audio-video communication must be recorded
- ▶ the recording must be kept by the notary for a period of **seven (7) years**

Remote notarization may not be used to notarize an absentee ballot application or an absentee ballot affidavit, or for any purpose related to voting

REMOTE IDENTIFICATION

If appearing through the use of two-way audio-video communication, the identity of the signatory shall be verified by the notary public by either:

- ▶ the personal knowledge of the notary public of their identity or
- ▶ the presentation of two (2) valid forms of government issued identification, one of which shall include the face and signature of the signatory and a process by which the notary public verifies the identity of the signatory through a review of a public or a private data source, such as a mortgage or loan record, a utility bill, a voter identification document, or a major credit reporting agency report

REQUIREMENTS FOR THE RECORDING OF A TWO-WAY AUDIO-VIDEO COMMUNICATION

The recording must contain the following:

- ▶ The date and time of the remote notarial act
- ▶ A description of the documents to which the notarial act relates
- ▶ An attestation by the notary public of being physically located in Alabama
- ▶ A clear image of the any government issued identification if applicable
- ▶ A clear image of the act of signing observed by the notary public
- ▶ The official date and time of the notarization is the date and time the notary public witnessed the signature, including the date and time the signature was witnessed
- ▶ All documents used during the two-way audio-video communication must be provided to the notary for authentication and original signature

DISCIPLINE OF NOTARY PUBLICS

The commissioning judge of probate, their successor in office, may issue a warning to a notary or restrict, suspend, or revoke a notarial commission for a violation on any ground for which an application for a commission may be denied. A period of restriction, suspension, or revocation does not extend the expiration date of a commission.

The commissioning judge of probate may order injunctive relief against any notary who violates these procedures, including ordering the surrender and destruction of a notary commission and notary seal.

CRIMINAL LIABILITY MISDEMEANOR

An individual will be guilty of a Class C misdemeanor if they do any of the following:

- ▶ hold themselves out to the public as a notary without being commissioned
- ▶ perform a notarial act with an expired, suspended, or restricted commission
- ▶ perform a notarial act before taking an oath of office
- ▶ charging a fee for a notarial act in excess of the maximum fee allowed
- ▶ taking an acknowledgement or administering an oath or affirmation without the principal appearing in person before the notary or following the procedures for remote notarization set out in this article
- ▶ taking an acknowledgement or administering an oath or affirmation without personal knowledge or satisfactory evidence of the identity of the principal
- ▶ taking a verification or proof without personal knowledge or satisfactory evidence of the identity of the subscribing witness

CRIMINAL LIABILITY

FELONY

A notary will be guilty of a Class D felony if they do any of the following with intent to commit fraud or to intentionally assist in the commission of a fraudulent act:

- ▶ taking an acknowledgement or administering an oath or affirmation they know or reasonably believes to be false
- ▶ taking an acknowledgement or administering an oath or affirmation without the principal appearing in person before the notary or following the procedures for remote notarization set out in this article
- ▶ taking a verification or proof without the subscribing witness appearing in person before the notary or following the proper procedures for remote notarization
- ▶ performing a notarial act in Alabama with the knowledge that they are not properly commissioned

Any individual who knowingly solicits, coerces, or in any material way, influences a notary to commit official misconduct is guilty as an aider and abettor and is subject to the same level of punishment as the notary.

REPORTING NOTARY MISCONDUCT

Any party to a transaction requiring a notarial certificate for verification or any attorney licensed in Alabama who is involved in such a transaction in any capacity, may execute an affidavit and file with either the Secretary of State or the judge of probate who issued the commission to the notary public, setting forth the actions which the affiant alleges are violations. Upon receipt of an affidavit, the Secretary of State or the judge of probate shall forward the affidavit to the Alabama State Law Enforcement Agency. Upon receipt of the affidavit, the Alabama State Law Enforcement Agency shall initiate and carry out, on their own or in coordination with the local law enforcement agencies, investigations of the violations. Founded investigations will be referred to the appropriate district attorney for prosecution.

EXAMPLE OF A GENERAL NOTARY ACKNOWLEDGEMENT

STATE OF ALABAMA

COUNTY OF _____

I, the undersigned authority, in and for said County and State, hereby certify that _____ whose name is signed to the foregoing and who is known to me, who being first duly sworn on oath, acknowledged before me on this day, that the statements contained herein are true and correct and (s)he executed the same voluntarily on the day the same bears date.

Given under my hand this the ___ day of _____, 20__.

(AFFIX NOTARY SEAL)

Notary Public

My Commission expires: _____

EXAMPLE OF A NOTARY ACKNOWLEDGMENT INVOLVING AN ENTITY

STATE OF ALABAMA

COUNTY OF _____

I, the undersigned authority, in and for said County and State, hereby certify that _____ whose name, as _____ (title) of _____ (entity name), a _____ corporation, is signed to the foregoing instrument, and who is known to me, acknowledges before me on this day that the statements contained herein are true and correct and (s)he has full authority to execute the same, and that (s)he is voluntarily doing so on the day that bears date.

Given under my hand this the ___ day of _____, 20__.

(AFFIX NOTARY SEAL)

Notary Public

My Commission expires: _____

EXAMPLE OF A REMOTE GENERAL NOTARY ACKNOWLEDGMENT

STATE OF ALABAMA

COUNTY OF _____

I, the undersigned authority, in and for said County and State, hereby certify that _____ whose name is signed to the foregoing and who is known to me, who being first duly sworn on oath, acknowledged via two-way audio-video communication before me on this day, that the statements contained herein are true and correct and (s)he executed the same voluntarily on the day the same bears date.

Given under my hand this the ___ day of _____, 20__.

(AFFIX NOTARY SEAL)

Notary Public

My Commission expires: _____