



Knowledgeable Notary

NEBRASKA SECRETARY OF STATE'S OFFICE NOTARY SECTION

John Gale
Secretary of State

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MESSAGE FROM JOHN GALE, SECRETARY OF STATE

Nebraska currently has over 31,300 commissioned notaries in the state. Each is a licensed professional acting on behalf of the state to fulfill the state notary laws. Recently the Legislature updated the notary laws, and in doing so, made the duties of a notary more clear. Regardless of who pays for your licensing fees and your seal, you are the licensed professional and are expected to follow the laws. Failing to do so is a breach of your pledge to the state to perform according to the law.

Why is this important? Nebraska is a state with some 530 communities and 93 counties, and daily there are thousands of transactions involving land transfers and mortgages, business agreements, and other documents that need notarization. Notarized documents give assurances to the parties and to the public that signatures are proper and genuine.

Our goal is to make sure that notarized documents are reliable and enforceable documents in Nebraska, and that they give confidence to our citizens and to out-of-state parties that the documents are properly signed and notarized. This is your responsibility and not that of someone else! Notaries must act as professionals, and take their duties seriously. Double-check the state and county recited; be sure the name recited in the acknowledgement is one and the same as the signature; be sure your signature is the same as your notary stamp; be sure your stamp is current and is clearly affixed; be sure to follow the rules for identifying the signer; never notarize documents already signed no matter who assures you that the signatures are proper; never notarized documents with blank signature lines; never notarize signatures for out-of-state persons pretending to be signing in the state; and reread what you have done to be certain you haven't missed any detail.

To emphasize the importance of personal appearance and identification, we have devoted a section of this newsletter to that topic. Please take the time to read it!

Contact our office with any questions: call (402) 471-2558 or email my Deputy Secretary of State, Deb Pester at Debbie.Pester@sos.ne.gov.

**** Personal Appearance ** Personal Appearance ** Personal Appearance ****

A notary's responsibilities are a time-honored fundamental process recognized around the world. According to Nebraska law, the notary taking an acknowledgement is certifying that:

- The person acknowledging appeared before him and acknowledged he executed the document; and
- The person acknowledging was known to the person taking the acknowledgement or that the person taking the acknowledgement had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

A notary, acting in their official witness capacity, means that subsequent readers of a document may rely on the fact that the notary took the following steps:

1) Prior to notarization, the identity of the document signer(s) must be verified. This is accomplished in one of the following manners:

a) The notary may already have personal knowledge of the document signer(s) for whom they will be notarizing. If this is the case, depending on how well or how long the notary has known the document signer, the notary may determine if they wish to see additional identification.

b) If the notary does not know the identity of the document signer(s), the document signer(s) must provide a current, (U.S.) state government issued picture identification also containing a physical description of the individual and the individual's signature. Examples of this are driver's licenses and state identification cards. A U.S. passport may be used in lieu of the aforementioned I.D.'s even though the passport does not contain a physical description of the bearer of the identification.

c) If the document signer does not have identification as described above in b), there are two other methods that may be employed to verify identity. The first method is: A credible witness, unaffected by the document to be notarized, who is known to both the notary and the document signer and who may take an oath or affirmation, administered by the notary, that they know the identity of the document signer(s). The second method is: Two credible witnesses, unaffected by the document to be notarized, who are known only to the document signer, who may both take an oath or affirmation, administered by the notary, stating they know the identify of the signer(s).

2) Personal Appearance: The document signer(s) must sign the document in the physical presence of the notary.

There are NO EXCEPTIONS to the personal appearance requirement.

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Supplies and Training needed to perform Notarizations in Nebraska

Many companies are advertising on the Internet and sending out advertisements claiming that there are certain supplies and training that are mandatory or necessary for notaries to properly perform notarizations. The following explanation covers all that you need to have in order to notarize properly in Nebraska:

Supplies: According to Nebraska law, the only supply needed for a notary to perform his/her duties is an inked stamp seal. Although it is not required by law, the Secretary of State's Office recommends the use of a notary journal to record notary transactions. We have provided a sample journal page on our website at:

<http://www.sos.state.ne.us/business/notary/pdf/journal.pdf> and instructions for completing the journal is at: <http://www.sos.state.ne.us/business/notary/pdf/instructions.pdf>.

Some companies will attempt to sell oath or acknowledgement stickers that may be purchased on sheets or rolls, then may be peeled off, and affixed by the notary onto a document. Under Nebraska law, only a notary who is a licensed attorney may give legal advice on acknowledgement or attestation clause wording to be used on documents to be notarized. Be aware that if you, as a notary, choose to use these 'stick-ons' without first asking the document signer if they feel the wording is correct or appropriate, you could later be accused of giving legal advice. Our office has also received calls questioning how permanent such 'stick-ons' might be. Our suggestion is to perform a notarization the safe, old fashioned way; i.e. use a computer or carefully hand write the wording needed

Training classes to become a 'signing agent' or 'mobile notary': In Nebraska, there is one classification of notaries: general notary. There is no provision for signing agent or mobile notary under our laws. Notaries also need to be advised that fees that a notary may charge are set out in statute §33-133. The highest fee that a notary may charge is for an acknowledgement and that fee is \$5.00. The only other fee that a notary may charge is the current mileage rate established by the IRS. Neither the notary nor a third party charging for notary services as part of a real estate closing, for instance, may exceed the statutory fees allowed by law.

CONTACT INFORMATION

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