



# 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

Three new notary public laws took effect January 1, 2017.

## **Acceptable Identification:**

Civil Code section 1185 was amended to change the types of acceptable identification used for proof of identity by adding a valid passport from the person's country of citizenship, a valid consular identification document issued by a consulate from the person's country of citizenship and an identification card issued by a federally recognized tribal government to the list of acceptable documents if the identification is current or has been issued within the last 5 years, contains a photograph and description of the person named on it, is signed by the person, and bears a serial or other identifying number.

Government Code sections 6107, 8205, 8206, 8213, and 8213.5 were amended to require a person taking and subscribing the notary public's oath of office before a county clerk to present one of the following forms of identification:

- An identification card or driver's license issued by the Department of Motor Vehicles;
- A passport issued by the Department of State of the United States;
- A valid consular identification document issued by a consulate from the applicant's country of citizenship, or a valid passport from the applicant's country of citizenship; or
- An employee 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.

## **Methods of Delivery of Notification:**

The new law changes also expand the methods of delivering formal notices and communications to include any means of physical delivery that provides a receipt for official notices and requests for information from the Secretary of State to a notary public and communication and notices (e.g. changes of address) from a notary public to the Secretary of State

## **Maximum Fees:**

Government Code sections 8211 and 8233 were amended to increase the maximum fees which may be charged for certain notarial acts. The new maximum fees are as follows:

Description	Maximum Fee
Acknowledgment or proof of a deed or other instrument, to include the seal and the writing of the certificate	\$15 for each signature
Administering an oath or affirmation to one person	\$15
Executing the jurat including the seal	\$15
All services rendered in connection with taking of any deposition	\$30
Additional services rendered in connection with taking of any deposition: <ul style="list-style-type: none"> <li>• Administering the oath to the witness</li> <li>• Certificate to the deposition</li> </ul>	\$7 each
Notarize signatures on vote by mail ballot identification envelopes or other voting materials	\$0
Certifying a copy of a power of attorney under Probate Code section 4307	\$15
United States military veteran's application or claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's benefit (Section 6107)	\$0
A notary public qualified and bonded as an immigration consultant may enter data, provided by the client, on immigration forms provided by a federal or state agency	\$15 per individual for each set of forms

## WHAT IS YOUR "OFFICIAL" SIGNATURE AS A NOTARY PUBLIC

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.

The signature and how it appears on the notary public oath filed with the county clerk's office is the official signature of the notary public. The oath states below the signature that "This signature must be used by you in signing ALL notarized documents." Each and every time you sign your name in your capacity as a notary public you must use your official signature.

The signature of the notary public cannot be changed unless the notary public has a legal name change or if the notary public moves to another county and a new oath and bond have been filed with the new county.

If a notary public changes his or her name, then the notary public must complete and send a Name Change Application to the Secretary of State. Once approved, an amended commission will be issued reflecting the 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.

The Secretary of State sends admonishment letters to notaries public who do not use their official signature on notarial acts. Best business practice: Do not alter your signature when signing in your official capacity as notary public and sign your name the same way every time you perform a notarial act.

# PROTECT YOURSELF: JOURNALING ALL NOTARIAL ACTS

Your notary public journal is your notary public life history. Keeping a detailed journal protects you, the notary public. By law, as a notary public you are required to chronicle your notarial events each and every time. Any member of the public may submit a written request to you for a copy of a transaction in your notary public journal and you are required to respond within 15 business days after the receipt of the request. (California Government Code sections 8206(c) and 8206.5.) A notary public must keep only one active sequential journal at a time that contains all notarial acts. (California Government Code section 8206(a)(1).)

Most notarial acts relate to another person signing or certifying a document, but not all. When a notary public performs a notarial act in his or her official capacity, the act must be included in the notary public's official journal.

## **The Basics: Date, Time and Type of Each Official Act**

Each notarial act must be a separate journal entry, and each notarial act must include the date, the time, and the type of official act. Do not confuse the type of act with the type of document. These are not the same. The type of act is the form the notary public uses, such as a certificate of acknowledgment or jurat.

## **Be Compliant. Be Specific: Capture the Character of Each Instrument**

The character of a document refers to the type of document such as a deed of trust, affidavit, deed of

reconveyance, or power of attorney. The type of document determines whether or not a thumb print must be taken. Using terms such as "loan docs" or "mortgage docs" are too general and do not meet the specificity requirements of California Government Code section 8206(a)(2)(B).

## **Sign Here Please: Signatures for Each Line Item in the Journal**

Not only must a notary public have a separate journal entry for each type of notarization, a specific description of the document, and the time and date of the official act, California Government Code section 8206(a)(2)(C) requires the signature for each line item. Capturing a single signature on a diagonal line drawn through several line items in an attempt to show one person signed for multiple documents is contrary to notary public law.

A notary public may be asked to produce a single line item from his or her journal. If there is only a diagonal line drawn through multiple entries with a single signature, the copy of the line item will have a partial signature and will be incomplete and legally deficient. Protect yourself and protect your commission: capture a signature on every line item, every time.

## **Identification: Ask for it; Review it; Record it.**

Documenting how the signer's identification was established is critical to completing a journal entry properly. Always require the signer to appear physically in person before you with proper identification.

You must rely upon “satisfactory evidence” to establish the signer’s identity as defined in California Civil Code section 1185. The identification document must include the governmental agency issuing the identification, the serial number or other identifying number of the identification document, a photograph and description of the person named on it, and the date of issuance or expiration of the identification document. It is imperative that the notary public verifies that the required elements are present.

When recording the identifying document in your journal, you must enter the type of identifying document (i.e. passport, driver’s license), the government agency issuing the identifying document (i.e. CA DMV), the serial number or identifying number of the document, and the date of issuance or expiration of the document.

#### **You Charge How Much? Record it.**

Always record the fee charged for each notarial act performed. If you do not charge a fee or did not charge a fee, indicate this fact by documenting “0” for fees or write “no fee.” The fee entered never should exceed the fee allowed by California Government Code section 8211. Other fees, such as travel fees and/or loan signing fees should not be included as fees charged for the notarial service. You may note other fees charged in the additional information portion of your journal.

#### **Thumbprint: Roll It; Print It; Document It.**

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, you must request the person signing the document to place his or her right thumbprint in the journal. If the right thumb is not available, the signing party must use his or her left thumb, or any available finger,

and you must indicate which finger was used in the journal. If the signer is physically unable to provide a fingerprint, you must provide an explanation of the signer’s physical condition in your journal. The print must be legible and clearly visible.

#### **The Bottom Line**

It’s your journal. It’s your responsibility. Don’t put yourself and your livelihood at risk by not accurately documenting all of your notarial acts. Remember: be thorough, be detailed, and don’t take shortcuts. Always be sure to capture the information before performing the notarial act. By developing good journaling habits, you preserve your notary public life history!

## HOW SAFE ARE YOUR NOTARY PUBLIC JOURNAL AND STAMP?

No person except the notary public can have access to the notary public's journal. This includes an employer who has paid for the notary public's journal. California Government Code sections 8206(a)(1) and 8207 require that the journal and stamp must be stored in a locked and secure area that is under the direct and exclusive control of the notary public.

Secretary of State Investigators have found that one of the most common causes of theft of a notary public journal or stamp occurs because the notary public locked the journal and/or stamp in an unattended vehicle. Statistically, an unattended automobile is ten times more susceptible to a break in than an unattended home. An unattended vehicle should

not be considered a secure location to store your notary public journal and/or stamp. Failure to secure your journal and stamp may result in suspension or revocation of your commission and may include civil and criminal penalties.

If your notary public journal and/or stamp is lost or stolen, immediately notify the California Secretary of State in writing by any physical means that provides a receipt. Include a copy of the police report, if applicable. Keeping your notary public journal and stamp in a secure location at all times helps safeguard your commission.

## BACKGROUND CHECKS: WHY ARE THEY NECESSARY?

Since 1967, the California Secretary of State has had the responsibility of appointing notaries public for the state of California. The people of California and the Secretary of State rely on notaries public to perform their duties with honesty and integrity.

The Secretary of State is required to determine that a notary public possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position prior to granting an appointment. One of the ways the Secretary of State determines if an applicant meets the qualifications is by conducting background checks on every individual applicant.

Prior to granting commissions as notaries public, state law requires all applicants to 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). 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. If fingerprints are not taken within one year of the notary public examination date the applicant will be required to retake the exam.

All applicants must disclose on their application any arrests for which trial is pending, as well as, all convictions. An applicant should not attempt to determine which convictions should be disclosed, and should include all convictions, including DUIs (Driving under the Influence). Failure to disclose any conviction may result in the Secretary of State seeking a denial of the application under Government Code section 8214.1(a). Convictions dismissed under Penal Code section 1203.4 or 1203.4a also must be disclosed. A conviction after a plea of nolo contendere is deemed to be a conviction and must be disclosed on the application.

The only exceptions to disclosure are traffic infractions, offenses adjudicated in a juvenile court or under a youthful offender law, and any incident

that has been sealed under Welfare and Institutions Code section 781 or penal Code section 1203.45 (juvenile offenses).

Not all convictions are disqualifying. The qualifications summary on our website at [www.sos.ca.gov/notary/qualifications](http://www.sos.ca.gov/notary/qualifications) and the disciplinary guidelines at [www.sos.ca.gov/notary/disciplinary-guidelines](http://www.sos.ca.gov/notary/disciplinary-guidelines) are helpful references for all notary public applicants.

Government, businesses, and the public depend on the integrity of notaries public. Character is germane to the qualifications of the office of a notary public, given the nature of the duties and responsibilities. Good character is the foundation of all notarial acts.

## IMMIGRATION DOCUMENTS

A notary public may 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 cannot 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 non-legal 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 employer's 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 also an immigration consultant 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 also is qualified and bonded as an immigration consultant, a notary public cannot enter data provided by a customer on an immigration form, cannot sign the verification of that data, and cannot otherwise provide the services of an immigration consultant. There are special rules that apply to notaries public

who are also immigration consultants, and those who 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 also cannot 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 remove the signs or

advertisements immediately. (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.

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

## 2017 HANDBOOK

The [2017 Notary Public Handbook](#) soon will be available online and in hard copy at no charge. Request a copy of the 2017 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.

## PROCESSING TIMES

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

## Official Publication of the Notary Public & Special Filings Section of the California Secretary of State's Business Programs Division

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 11th Street, 2nd 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/notary](http://www.sos.ca.gov/notary)**Mailing Address**

P.O. Box 942877

Sacramento, CA 94277-0001

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