CHAPTER 13

HOUSE BILL 2178

AN ACT


(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-294, Arizona Revised Statutes, is amended to read:

38-294. Resignations

Resignations shall be in writing and made as follows:

1. By members of the legislature, to the presiding officer of the body of which the legislator is a member, who shall immediately transmit the resignation to the governor.

2. By state officers, notaries public and officers of the militia, to the governor.

3. By other officers commissioned by the governor, to the governor.

4. By county officers, to the chairman of the board of supervisors of their county.

5. By the chairman of the board of supervisors, to the county recorder of the county.

6. In cases not otherwise provided for, by filing the resignation in the office of the secretary of state.

7. By appointive officers, to the body or officer which appointed them, unless otherwise provided.

Sec. 2. Section 41-311, Arizona Revised Statutes, is amended to read:

41-311. Definitions

In this article, unless the context otherwise requires:

1. "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is proven by satisfactory evidence, appeared before the notary and acknowledged that the signer signed the document.

2. "Commission" means to authorize to perform notarial acts and the written authority to perform those acts.

3. "Copy certification" means a notarial act in which the notary certifies that the notary has made a photocopy of an original document that is neither a public record nor publicly recordable.

4. "Incomplete document" means a document that has not been signed where a signature line is provided or where other obvious blanks appear in the document or that lacks a notarial certificate.

5. "Jurat" means a notarial act in which the notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the notary's presence a voluntary signature and has taken an oath or affirmation vouching for the truthfulness of the signed document.

6. "Notarial act" or "notarization" means any act that a notary is authorized to perform under section 41-313 AND THAT VERIFIES ONLY THE IDENTITY OF A SIGNER OF A DOCUMENT AND NOT THE TRUTHFULNESS, ACCURACY OR VALIDITY OF THE DOCUMENT.

7. "Notarial certificate" or "certificate" means the part of or attachment to a notarized document for completion by the notary that bears
the notary's signature and seal and THAT states the venue, date and facts
that are attested by the notary in a particular notarization.

8. "Notary public" or "notary" means any person commissioned to
perform notarial acts under this article.

9. "Oath" or "affirmation" means a notarial act or part of a
notarial act in which a person made a vow in the presence of the notary
under penalty of perjury, with reference made to a supreme being in the

8 case of an oath.

10. "Personal knowledge" means familiarity with an individual
resulting from interactions with that individual over a sufficient time to
eliminate reasonable doubt that the individual has the identity claimed.

11. "Satisfactory evidence of identity" means:
   (a) Proof of identity is evidenced by one of the following:
       (i) An unexpired driver license OR NONOPERATING IDENTIFICATION
           LICENSE that is issued by a state or territory of the United States.
       (ii) An unexpired passport that is issued by the United States
department of state.
       (iii) An unexpired identification card that is issued by any branch
           of the United States armed forces.
       (iv) AN INMATE IDENTIFICATION CARD THAT IS ISSUED BY THE STATE
           DEPARTMENT OF CORRECTIONS, IF THE INMATE IS IN THE CUSTODY OF THE
           DEPARTMENT.
       (v) ANY FORM OF INMATE IDENTIFICATION THAT IS ISSUED BY A COUNTY
           SHERIFF, IF THE INMATE IS IN THE CUSTODY OF THE COUNTY SHERIFF.
       (vi) Any other unexpired identification card that is issued
           by the United States government or a state or tribal government, that
           contains the individual's photograph, signature and physical description
           and that contains the individual's height, weight, HAIR color of hair and
           EYE color of eyes.
       (vii) The oath or affirmation of a credible person who is
           personally known to the notary and who personally knows the individual.
       (viii) The oath or affirmation of a credible person who
           personally knows the individual and who provides satisfactory evidence of
           identity pursuant to item (i), (ii), (iii), or (iv), (v) OR (vi) of this
           subdivision.
       (ix) Personal knowledge of the individual by the notary.
   (b) In addition to subdivision (a) OF THIS PARAGRAPH, for the
purposes of a real estate conveyance or financing, proof of identity may
be evidenced by one of the following:
       (i) A valid unexpired passport that is issued by the United States
government.
       (ii) A valid unexpired passport that is issued by a national
government other than the United States government and that is accompanied
by a valid unexpired visa or other documentation that is issued by the
United States government and that is necessary to establish an
individual's legal presence in the United States.
(iii) Any other valid unexpired identification that is deemed acceptable by the United States department of homeland security to establish an individual's legal presence in the United States and that is accompanied with supporting documents as required by the United States department of homeland security.

12. "Venue" means this state and THE county where a notarial act occurs.

Sec. 3. Section 41-313, Arizona Revised Statutes, is amended to read:

41-313. Duties
A. Notaries public shall perform the following notarial acts, when requested:
1. Take acknowledgments and give certificates of the acknowledgments endorsed on or attached to the instrument.
2. Administer oaths and affirmations.
3. Perform jurats.
4. Perform copy certification.
B. Notaries public shall perform the notarial acts prescribed in subsection A of this section only if:
1. The signer is in the presence of the notary at the time of notarization.
2. The signer signs in a language that the notary understands.
3. Subject to subsection D. The signer communicates directly with the notary in a language they both understand or indirectly through a translator who is physically present with the signer and notary at the time of the notarization and WHO communicates directly with the signer and the notary in languages the translator understands.
4. The notarial certificate is worded and completed using only letters, characters and a language that are read, written and understood by the notary public.
C. If a notary attaches a notarial certificate to a document using a separate sheet of paper, the attachment must contain a description of the document that includes at a minimum the title or type of document, the document date, the number of pages of the document and any additional signers other than those named in the notarial certificate.
D. A notary may perform a notarial act on a document that is a translation of a document that is in a language that the notary does not understand only if the person performing the translation signs an affidavit containing an oath or affirmation that the translation is accurate and complete. The notarized translation and affidavit shall be attached to the document and shall contain all of the elements described in subsection C.
E. D. Notaries public shall:
1. Keep, maintain and protect as a public record a journal of all official acts performed by the notary as described in section 41-319.
2. Provide and keep the official seal that is imprinted in dark ink with the words "notary public", the name of the county in which the notary is commissioned, the name of the notary as it appears on the notarial application, the great seal of the state of Arizona, THE NOTARIAL COMMISSION NUMBER and the expiration date of the notarial commission.

3. Authenticate with the official seal all official acts on every certificate or acknowledgment signed and sealed by the notary.

4. Respond to any requests for information and comply with any investigations that are initiated by the secretary of state or the attorney general.

Sec. 4. Section 41-315, Arizona Revised Statutes, is amended to read:

41-315. Bond
A. A person who has been commissioned as a notary shall file with the secretary of state an oath of office and a bond in an amount prescribed by the secretary of state in order for the commission to become effective. A licensed surety shall execute the bond. The bond shall be effective for four years beginning on the commission's effective date.

B. The secretary of state shall not accept any bond that was issued more than sixty days before or more than thirty SIXTY days after the date on which the secretary of state commissions a notary.

Sec. 5. Section 41-317, Arizona Revised Statutes, is amended to read:

41-317. Resignation; delivering notary seal, notarial journal and records; failure to comply; storing records; certified copies
A. A NOTARY SHALL SUBMIT THE NOTARY'S RESIGNATION IN WRITING TO THE SECRETARY OF STATE.

B. On the resignation or revocation of a notarial commission or the death of a notary, the notary seal, notarial journal and records, except those records of notarial acts that are not public record, shall be delivered by certified mail or other means providing a receipt to the secretary of state. If a notary does not apply for reappointment, on expiration of the notarial commission the notary seal, journal and records shall be delivered to the secretary of state as required for resignation under this subsection. A notary who neglects for three months thereafter to deposit such records, seal and papers, or the personal representative of a deceased notary who neglects for three months after appointment to deposit such records, seal and papers, shall forfeit to the state not less than fifty nor more than five hundred dollars.

C. While a notary public is commissioned, a notary public shall keep all records and journals of the notary's acts for at least five years after the date the notarial act was performed. On receipt of the records and journals from a notary public who no longer is commissioned, the secretary of state shall keep all records and journals of notaries public deposited in the secretary of state's office for five years and shall give
certified copies thereof when required, and for the copy certifications
the secretary of state shall receive the same fees as are by law allowed
to notaries public. The copy certifications shall be as valid and
effectual as if given by a notary public.

Sec. 6. Section 41-323, Arizona Revised Statutes, is amended to
read:

41-323. Change of address; lost, stolen or compromised
journal or seal; civil penalty

A. Within thirty days after the change of a notary's mailing,
business or residential address, the notary shall deliver to the secretary
of state, by certified mail or other means providing a receipt, a signed
notice of the change that provides both the old and new addresses.

B. Within ten days after the loss, or theft OR COMPROMISE of an
official journal or seal, the notary shall deliver to the secretary of
state, by certified mail or other means providing a receipt, a signed
notice of the loss, or theft OR COMPROMISE. The notary also shall inform
the appropriate law enforcement agency in the case of theft.

C. If a notary fails to comply with subsection A or B OF THIS
SECTION, the notary has failed to fully and faithfully discharge the
duties of a notary and the secretary of state may impose a civil penalty
of twenty-five dollars against the notary. The notary shall pay any civil
penalty imposed by the secretary of state pursuant to this subsection
before the renewal of the notary's commission.

Sec. 7. Section 41-332, Arizona Revised Statutes, is amended to
read:

41-332. Notary education fund
The notary education fund is established consisting of monies
deposited pursuant to sections SECTION 41-312 and 41-353. The secretary
of state shall administer the fund. Monies in the fund are subject to
legislative appropriation.

Sec. 8. Section 41-351, Arizona Revised Statutes, is amended to
read:

41-351. Definition of electronic signature
In this article, unless the context otherwise requires, —
1. "Approved time stamp provider" means a person or organization
recognized by the secretary of state as capable of reliably providing time
stamp services on notary service electronic documents.

2. "Electronic" means relating to technology having electrical,
digital, magnetic, wireless, optical, electromagnetic or similar
capabilities.

3. "Electronic acknowledgment" means a notarial act in which an
electric notary electronically certifies that the signer, whose identity
is proven by satisfactory evidence, either:
(a) Appeared before the electronic notary and acknowledged that the
signer executed the instrument.
(b) Provided secure electronic acknowledgment that the signer executed the electronic instrument presented to the electronic notary.

4. “Electronic commission” means the written authority to perform electronic notarization acts.

5. “Electronic document” means any record created, generated, sent, communicated, received or stored by electronic means.

6. “Electronic jurat” means an electronic notarial act in which the electronic notary certifies that a signer, whose identity is proven by satisfactory evidence, has made in the electronic notary’s presence a voluntary electronic signature or mark and has taken an oath or affirmation vouching for the truthfulness of the signed electronic document.

7. “Electronic notary public” or “electronic notary” means any person commissioned to perform notarial acts under this article.

8. “Electronic notary token” means the electronic attachment to a notarized electronic document that is attached by the electronic notary and that contains the notary’s electronic signature. The electronic notary token is linked to the electronic document to which it relates in a manner so that if the document is changed the electronic notary token is invalidated.

9. “Electronic signature” means an electronic method or process that through the application of a security procedure allows a determination that the electronic signature at the time it was executed was all of the following:

   (a) Unique to the person using it.
   (b) Capable of verification.
   (c) Under the sole control of the person using it.
   (d) Linked to the electronic document to which it relates in a manner so that if the document is changed the electronic signature is invalidated.

10. “Notary service electronic certificate” means the materials and methods issued by an electronic notary to a prospective signer so that signer may create a notary service electronic signature.


12. “Oath” or “affirmation” means an act in which a person makes a vow in the presence of the electronic notary under penalty of perjury, with reference made to a supreme being in the case of an oath.

13. “Personal knowledge” means familiarity with an individual resulting from interactions with that individual over a sufficient time to eliminate reasonable doubt that the individual has the identity claimed.

14. “Satisfactory evidence of identity” means:

   (a) Proof of identity is evidenced by one of the following:

   (i) An unexpired driver license that is issued by a state or territory of the United States.
(ii) An unexpired passport that is issued by the United States department of state.

(iii) An unexpired identification card that is issued by any branch of the United States armed forces.

(iv) Any other unexpired identification card that is issued by the United States government or a state or tribal government, that contains the individual's photograph, signature and physical description and that contains the individual's height, weight, color of hair and color of eyes.

(v) The oath or affirmation of a credible person who is personally known to the electronic notary and who personally knows the individual signer.

(vi) The oath or affirmation of a credible person who personally knows the individual and who provides satisfactory evidence of identity pursuant to item (i), (ii), (iii) or (iv) of this subdivision.

(vii) Personal knowledge of the individual signer by the electronic notary.

(b) In addition to subdivision (a) of this paragraph, for the purposes of a real estate conveyance or financing, proof of identity may be evidenced by one of the following:

(i) A valid unexpired passport that is issued by the United States government.

(ii) A valid unexpired passport that is issued by a national government other than the United States government and that is accompanied by a valid unexpired visa or other documentation that is issued by the United States government and that is necessary to establish an individual's legal presence in the United States.

(iii) Any other valid unexpired identification that is deemed acceptable by the United States department of homeland security to establish an individual's legal presence in the United States and that is accompanied with supporting documents as required by the United States department of homeland security.

15. “Time stamp token” means a secure electronic method to affix a statement of the time and date that the document was recognized as a valid notary service electronic document by an approved time stamp provider. A time stamp token is attached by an approved time stamp provider to the document in a way that if the document changes the time stamp token is invalidated.

Sec. 9. Repeal

Sec. 10. Title 41, chapter 2, article 3, Arizona Revised Statutes, is amended by adding a new section 41-352, to read:

41-352. Electronic notarization; rules
A. NOTARIAL COMMISSIONS, DUTIES AND ACTS AS PRESCRIBED BY THIS ARTICLE MAY BE PERFORMED ELECTRONICALLY.
B. A notary public may accept documents signed with an electronic signature.

C. On or before December 31, 2019, the Secretary of State shall adopt rules that establish standards for secure and feasible implementation of electronic notarization.

Sec. 11. Section 44-7011, Arizona Revised Statutes, is amended to read:

44-7011. Notarization; acknowledgment

Notwithstanding title 41, chapter 2, article 2, if the law requires a signature or record to be notarized, acknowledged, verified or made under oath, that requirement is satisfied if a notary completes a notarial act on the electronic message or document. That notarial act on the electronic message or document is complete without the imprint of the notary's seal if all of the following apply:

1. The electronic message or document is signed pursuant to this chapter or section 18-106 in the presence of a notary.

2. The notary confirms that the electronic signature on the electronic message or document is verifiably the electronic signature issued to the signer pursuant to this chapter or section 18-106.

3. The notary electronically signs with an electronic signature that is consistent with this chapter, title 41, chapter 2, article 3 or any other applicable law.

4. The following information appears electronically within the message electronically signed by the notary:

   (a) The notary's full name and commission number exactly as it appears on the notary's commission.

   (b) The words "electronic notary public", "state of Arizona" and "my commission expires on (date)".

   (c) The address of the notary's principal place of contact exactly as it appears on the notary's commission.

   (d) The notary's e-mail or other electronic address exactly as it appears on the notary's commission.

Sec. 12. Notaries public; seal; applicability

A notary public who is appointed after the effective date of this act shall use an official seal that is imprinted with the notary public's notarial commission number. A notary public who was appointed before the effective date of this act shall replace the notary's official seal on reappointment with an official seal that is imprinted with the notary public's notarial commission number.

APPROVED BY THE GOVERNOR MARCH 16, 2018.