Notary Modernization Act

Allison DeSantis
Director of Business Services and Deputy Assistant Secretary of State
Previous Law in Ohio

• Role of the Ohio Secretary of State
• Role of Ohio’s 88 counties
• Issues to be Addressed by the new law
  • Uniformity
  • Education
  • Permitting Electronic and Online Notarial Acts
Modernizing the Process

Legislative goals:
• Standardize the notary commission process
• Centralize the process to the Secretary of State’s Office
• Permit electronic and online notarization
Senate Bill 263

• Senate Bill 263, the Notary Public Modernization Act was passed in December of 2018.
• The act took effect on March 20, 2019 with a delayed effective date of September 20, 2019 for most sections.
• The act modernizes the process of obtaining a notary commission and permits electronic and online notarization.
Understanding the Changes

• The Secretary of State will oversee the commissioning and must adopt administrative rules.
• Sets consistent qualification requirements.
• Permits in-person electronic notarizations
• Permits online notarizations
• Increases fees charged by a notary public for an act.
Administrative Rules

- Standards and Curricula for the education program and test
- Approve Authorized Education and Testing Providers
- Fees to be paid to the Authorized Provider for services
- Technology Standards for Electronic and Online Notarial Acts
- Procedures for Investigations and Discipline
- Modified forms of Notarial Certificates for Electronic and Online Notarial Acts
Education and Testing Requirements

- Standards and Curricula for the Education Program
- Online Education and Testing
- Requirement for number of hours of education
- Continuing education requirement for renewals
Authorized Providers

• Address Authorized Providers by Rule
• Entities that the SOS **must** approve and others that we **may** approve
• Process to Select Authorized Providers
Technology Standards

- Mortgage Industry Standards Maintenance Organization (MISMO) drafted remote online notarization standards.
  - Credential Analysis
  - Dynamic Knowledge-Based Authentication
  - Audio Video Quality
  - Storage of Notarial Records
  - Post-Execution Records
  - Security Considerations
Investigations and Discipline

• Submit signed complaint to the Secretary of State.
• The Secretary of State or its agent will investigate the complaint.
• The investigation may result in an administrative hearing.
• A hearing officer will recommend discipline which may included a suspension or revocation of the commission.
Electronic Notarial Acts

- All notary publics commissioned by the Secretary of State may perform in-person electronic notarial acts.
- This is the process of performing a notarial act on an electronic document, rather than a paper document, although the notary public and signer must still be located in the same physical space.
- This requires the use of an electronic signature and electronic seal.
- The administrative rules provide language which must be used for the notarial certificate.
Online Notarization

Steps to completing an online notarization after being authorized by the Secretary of State and selecting an online notarization system vendor(s):

1. Signer uploads the document into the online notarization system
2. Notarization system verifies the identity of the signer.
3. System connects the signer to the notary public.
4. The system will show in real time, the notary public, the signer and the document. The notary public does the final identity verification and assesses the mental state of the signer.
5. Document is signed and notarial certificate completed.
Requirements for Maintaining a Notary Commission

• A non-attorney notary public must renew their notary commission and online authorization every five years.

• An attorney notary public’s commission does not expire, but their online authorization needs to be renewed every five years.

• An online authorization renewal application must be renewed every five years for an attorney and a non-attorney’s online authorization expires on the date their commission expires.

• Name and address changes must be filed within 30 days of the change.
Non-Attorney Application Process – New Commission

• Go to www.OhioSos.Gov and click on “Notary” to review the process and find the necessary links.

• Obtain a Criminal Records Check – WebCheck Locations will be listed on the SOS website. If no disqualifying offenses appear, proceed to the next step. Disqualifying offenses will be listed on the website. The records check must be obtained within 6 months prior to filing.

• Contact an Authorized Education and Testing Provider to complete a 3 hour education program and pass a test. Receive a certificate of completion from the provider. The fee is $130.00 paid to the authorized provider.

• Sign your name on and scan this document, to be saved as a PDF, which will allow the SOS to verify your official signature on notarized documents.

• Go to our website to file online – the system will require you to create an account, provide your Ohio address and all contact information, and then to upload the criminal records check, education/testing certificate and an image of your signature.

• Fee is $15.00 paid by credit/debit card to the Secretary of State.
Attorney Application Process – New Commission

• Go to www.OhioSos.Gov and click on “Notary” to review the process and find the necessary links.

• Contact an Authorized Education Provider to complete a 3 hour education program. Receive a certificate of completion from the provider. The fee is $75.00 paid to the authorized provider. Note: The provider may have approval from the Supreme Court to receive CLE credits for this class.

• Sign your name on and scan this document, to be saved as a PDF, which will allow the SOS to verify your official signature on notarized documents.

• Go to our website to file online – the system will require you to create an account, provide your Ohio address (residential or business) and all contact information, and then to upload the education certificate and an image of your signature.

• Pay a fee of $15.00 by credit/debit card to the Secretary of State.
Non-Attorney Application Process – Commission Renewal

• Go to www.OhioSos.Gov and click on “Notary” to review the process and find the necessary links.

• Obtain a Criminal Records Check – WebCheck Locations will be listed on the SOS website. If no disqualifying offenses appear, proceed to the next step. Disqualifying offenses will be listed on the website. The records check must be obtained within 6 months prior to filing.

• Contact an Authorized Education Provider to complete a 1 hour education program. Receive a certificate of completion from the provider. The fee is $45.00 paid to the authorized provider.

• Go to our website to file online – the system will require you to create an account if you have not yet done so and provide your Ohio address and all contact information, and then to upload the criminal records check and education certificate.

• Pay a fee of $15.00 by credit/debit card to the Secretary of State.
Online Authorization Application Process

• Go to [www.OhioSos.Gov](http://www.OhioSos.Gov) and click on “Notary” to review the process and find the necessary links. Note: Applicants must be an Ohio resident. This process is the same for attorneys and non-attorneys. You must first be commissioned as a notary public in Ohio to apply for your online authorization.

• Contact an Authorized Education and Testing Provider to complete a 2 hour education program and pass a test. Receive a certificate of completion from the provider. The fee is $250.00 paid to the authorized provider.

• Go to our website to file online – the system will require you to create an account if you have not yet done so and provide your Ohio address and all contact information, describe the technology system to be used and then to upload the education and testing certificate.

• Pay a fee of $20.00 by credit/debit card to the Secretary of State.
Online Authorization Renewal Application Process

• Go to [www.OhioSos.Gov](http://www.OhioSos.Gov) and click on “Notary” to review the process and find the necessary links. Note: Applicants must be an Ohio resident. This process is the same for attorneys and non-attorneys. You must first be commissioned as a notary public in Ohio to apply for your online authorization.

• Contact an Authorized Education and Testing Provider to complete a 1 hour education program. Receive a certificate of completion from the provider. The fee is $160.00 paid to the authorized provider.

• Go to our website to file online – log into the system and update information related to the technology system to be used and then to upload the education certificate.

• Pay a fee of $20.00 by credit/debit card to the Secretary of State.
Notarial Act Fees

• Pursuant to ORC 147.08 a notary may charge the following fees:
  • Up to $5 for a traditional or electronic notarial act
  • Up to $25 for an online notarial act
  • The fees charged are **not** calculated on a per signature basis, but instead per notarial act.
  • Reasonable travel fees are permitted if agreed upon by the signer and notary prior to the act. No other fees are permitted such as appointment fees.
Prohibited Acts

• A notary public shall not do any of the following:
  • Perform a notarial act with regard to a document executed by the notary
  • Perform a notarial act if the notary has a conflict of interest – a conflict of interest means you cannot be a party to the document or benefit from the transaction.
  • Signing a blank certificate and giving it to the signer
  • Performing an acknowledgement when an oath is required
  • Certifying that a document is either an original document or a true copy.
  • Changing anything in a document after it has been signed
  • Notarizing a blank or incomplete document
  • Notarizing your own signature
5 Steps of a Notarization

• Personal Appearance
• Check the document for completeness, original signature, notarial certificate wording
• Verify the facts – identity of the signer (personal knowledge, satisfactory evidence), screen for willingness and awareness, communicate in a common language, perform the act (acknowledgement, jurat),
• Record the notarization – recommendation is to keep a journal including the date, time of the notarization, type of notarization, type of document, name/address of signer, type of ID relied upon, fee and signature of signer.
• Complete the Notarial Certificate – wording of acknowledgment or jurat, signed by the notary, dated by the notary, venue, notary’s printed/typed/stamped name, commission expiration date and seal
Types of Notarial Acts

• Acknowledgments:
  • Signer personally appeared
  • Signer was identified
  • Signer acknowledges signature (not necessary to witness signature)
  • Include Acknowledgement language on certificate

• Jurat:
  • Oath or Affirmation
  • Personal Appearance
  • Witness the signature
  • Include Jurat language on Certificate
Acknowledgment Example

Signed: ___________________________ Sally Signer ___________________________

State of __________ Ohio ________
County of __________ Franklin ________

The foregoing instrument was acknowledged before me on this _________ September 20, 2019 ________ by
_________________________ Sally Signer __________________________
(name of person acknowledged).

(Notary Seal) ___________________________ Nancy Notary ___________________________
Signature of Notary Public

Nancy Notary
My Commission Expires
December 31, 2021

Ohio Secretary of State
Jurat Example

Signed: __________ Sally Signer __________________________

State of ___ Ohio ______
County of ___ Franklin ______

Sworn to or affirmed and subscribed before me by __ Sally Signer ______ (name of person making oath/affirmation) on this date of ___ September 20, 2019 ___.

(Notary Seal) __________ Nancy Notary __________________________
Signature of Notary Public

Nancy Notary
My Commission Expires
December 31, 2021

Frank LaRose
Ohio Secretary of State
Questions?

Allison DeSantis
Director of Business Services and Deputy Assistant Secretary of State
adesantis@OhioSOS.gov
614.466.0952