Revised August 25, 2020

Indiana Notary Public Guide

Office of the Indiana Secretary of State – Business Services Division

INBiz.in.gov

NOTICE: This document is intended to serve as an overview of information concerning notary public commissions and notarial acts in Indiana. Although the office of the Indiana Secretary of State takes every effort to ensure the accuracy of the information in this document, where your legal rights are involved, you are advised not to rely on this document. Instead you should review the law yourself and consult with an attorney.

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Resources

Indiana Secretary of State, Business Services Division

Web: INBiz.in.gov

Email: notary@sos.in.gov or https://inbiz.in.gov/about/contact

Phone: 317-234-9768

Mail: Indiana Secretary of State
Notary Division
302 West Washington St. Room E-018
Indianapolis, IN 46204

Links to Notary Organizations:

- American Society of Notaries: http://www.notaries.org/
- National Notary Association: http://www.nationalnotary.org/
- Indiana Notary Association: http://www.indynotaries.org/

Note: Notary organizations provide useful information and services to notaries. However, the state of Indiana does not endorse or require notaries to be a member of any notary organization or to purchase bonds, educational services or supplies from any notary organization.

Controlling Authority:

- Indiana Code 33-42 et. seq. (see appendix I. for a breakdown of governing law)
- Indiana Administrative Code Title 75, Article 7

What Is a Notary? A notary is a public official who is appointed by the state whose purpose is to serve the public as an impartial witness in performing a variety of official fraud-deterrent acts related to the signing of important documents. In Indiana, notary publics are appointed by the Governor and are commissioned by the Secretary of State. Depending on how a document is written, a notarization serves to affirm the identity of a signer and the fact that they personally executed their signature. A notarization, or notarial act, officially documents the identity of a party to a document or transaction and the occasion of the signing that others can rely upon, usually at face value. A notary's authentication is intended to be reliable, to avoid the inconvenience of having to locate a signer to have them personally verify their signature, as well as to document the execution of a document perhaps long after the lifetime of the signer and the notary. An oath is a sworn statement. In most cases a person will swear that a written statement, oral statement, or testimony they are about to give is true. A notary can document that the notary administered an oath to an individual. In the alternative, a notary can notarize an individual's signature on a document (affidavit) setting forth the information that a person swears is true or the oath they will abide by.

There are four basic components of a notary public. He or she serves as a ***law abiding***, ***bonded***, ***impartial***, ***public official.***

Law abiding:
A notary's key functions are to acknowledge and witness the signing of documents, and administer oaths and affirmations related to the signing of important documents so that public can rely upon the documents, and to act as a deterrence to fraud. Hoosiers expect notaries to be honest and faithful to the law. Notaries must take an oath to obey the laws of the United States and the State of Indiana. No person failing to meet the eligibility requirements under IC 33-42-12-1(b); failing to meet the moral character provision under IC 33-42-13-1(c); engaging in any prohibited act under IC 33-42-13-3; or who has been conviction under IC 5-8-3-1 is permitted to hold a notary public commission.

Bonded:
Before receiving an Indiana notary commission an applicant must secure an approved $25,000.00 official surety bond (see Indiana Code 33-42-12-1(c)(4)).

Impartial:
The role of a notary is to be an impartial witness to a signature, oath or affidavit. A notarial act serves as a legal attestation to, and presumptive evidence of, a signing, oath taking or swearing to an affidavit. A notary's impartiality is expected and required. Under state and common law, a notary may not notarize their own signature, the notary's spouse's signature, or any party that may directly benefit the notary or the notary's spouse (see Indiana Code 33-42-13-3).

Public official:

A notary public is commissioned by the state and serves as a public official. Notaries must meet and maintain many of the same qualifications as other state appointed and elected public officials. The term of the office of notary public is 8 years and a notary's jurisdiction is state wide. Though notaries are appointed to serve the public, an Indiana notary may not be compelled to provide any particular notarial act.

Most of the law concerning notaries and notarial acts can be found in the Indiana Code, Title 33 Article 42 (see **Appendix I**). Keep in mind however that laws are subject to change. Indiana Code Title 33, Article 42, Chapter 0.5, Section 18 (cited as IC 33-42-0.5-18) provides for notarial acts in Indiana:

> **IC 33-42-0.5-18**
> "Notarial act" means the following acts with respect to either a tangible or an electronic record:
> (1) Taking an acknowledgment.
> (2) Administering an oath or affirmation.
> (3) Taking a verification on an oath or affirmation.
> (4) Attesting to or witnessing a signature.
> (5) Attesting to or certifying a copy of:
> (A) a tangible document or record; or
> (B) an electronic document or record.
> (6) Noting a protest of a negotiable record.
> (7) Any other act authorized by common law or the custom of merchants.

Some aspects of the office of notary public and practice as a notary public are also governed by the Indiana Constitution, agency rules and published court opinions, sometimes referred to as common law. The Indiana Secretary of State receives applications for notary commissions, administers the commissioning process and keeps the roll of active notaries public. The Secretary of State has limited authority to revoke a notary's commission for certain types of misconduct. Conduct that can result in revocation of a notary commission is detailed in Indiana Code 33-42-13-3. A judge of a county circuit or superior court in the county in which a notary resides or is primarily employed may also revoke a notary's commission.

> **IC 33-42-13-3 Prohibitions**
> Sec. 3. (a) A commission as a notary public does not allow a person to do the following:
> (1) Provide legal advice or otherwise practice law.
> (2) Act as an immigration consultant or provide advice on immigration matters.
> (3) Represent a person in an administrative or judicial proceeding related to citizenship or immigration.
> (4) Use an initial or name, other than the initial or name under which the notary public has been commissioned, to sign an acknowledgment.
> (5) Take an acknowledgment or administer an oath to any person the notary public knows at the time to be:
> (A) adjudicated mentally incompetent; or

(B) under a guardianship described in IC 29-3.
(6) Take an acknowledgment from any person who is blind without first reading the record to the person who is blind.
(7) Take the acknowledgment of any person who does not speak or understand the English language unless the nature and effect of the record is translated into a language the person speaks or understands.
(8) Take the acknowledgment of a record without witnessing a signature or receiving an acknowledgment from the principal that the signature is authentic.
(9) Take a verification of an affidavit or oath in the absence of an affirmation of truth by the affiant.
(10) Perform a notarial act for:
(A) oneself;
(B) one's spouse; or
(C) any party;
that may directly benefit any person described in clauses (A) through (C).
(b) A notary public may not engage in false or deceptive advertising.
(c) A notary public, other than an attorney licensed to practice law in Indiana, may not use the term "notario" or "notario publico".
(d) Except as provided in subsection (g), a notary public may not advertise or represent that the notary public can draft legal documents, provide legal advice, or otherwise practice law. Any notary public who advertises notarial services shall include the following statement in each advertisement:
"I am not an attorney licensed to practice law in Indiana. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.".
(e) The statement described in subsection (d) shall be translated into every language used in an advertisement.
(f) If size or space restrictions make it impossible for the statement to be incorporated into an advertisement, the statement described in subsection (d) shall be prominently displayed at the site of where notarial act is performed. A display described in this subsection must be shown before the performance of a notarial act.
(g) Subsections (c) through (f) do not apply to a notary public who is licensed to practice law in Indiana.
(h) Unless otherwise permitted by law, a notary public may not withhold access to or possession of an original record provided by a person seeking the performance of a notarial act by a notary public.
(i) A notary public who violates this chapter may have the notary public's commission revoked by a judge with jurisdiction in the county in which the notary public resides or is primarily employed.
(j) A notary public whose commission has been revoked may not reapply for a new commission until five (5) years after the revocation.
(k) A notary public who has been convicted of notario public deception under section 4 of this chapter may not reapply for a new commission.
(l) If the secretary of state revokes the commission of a notary

public, the notary public may not reapply for a new commission for five (5) years.
(m) A notary public may not perform a notarial act when the notary public's commission is suspended or revoked.

Qualifications to Become a Notary

In order to qualify for an Indiana notary public commission, the applicant must meet the following criteria at the time of application and throughout their term of service:

a) Be at least ***18 years of age***.
b) Be ***a citizen or permanent legal resident of the United States.*** Note: non U.S. citizens must have visa or immigration status allowing permanent residence in the U.S. in order to be eligible to serve as an Indiana notary.
c) Be either: a ***full-time, permanent resident of the state of Indiana*** or ***primarily employed in the state of Indiana***. An Indiana notary must continuously maintain their Indiana residency or their Indiana employment. If at any time an Indiana notary ceases to be a full-time resident of the state of Indiana, or, in the case of a non-resident employee, the Indiana notary ceases to be primarily employed in Indiana, their commission becomes invalid and must be relinquished. Legal requirements for Indiana residency are the same residency requirements for voter registration and are detailed in Indiana Code 3-5-5 "Standards for Determining Residency" (see **Appendix II**).
d) Possess an Indiana driver's license, Indiana non-driver identification card or other acceptable form of identification to prove Indiana residence *or* possess proof of employment in the State of Indiana. When applying for a notary commission, an applicant who is primarily employed in the state of Indiana must provide a written statement documenting employment on company letterhead (see Indiana Administrative Code, Title 75, Article 7, Rule 2-2(c)(3)).
e) ***Never have committed an act or omission that demonstrates a deficiency in competence, honesty, integrity, or reliability, including any of the following, found in Indiana Code 33-42-13 or have been convicted of a crime which would disqualify the applicant from holding a public office in the state of Indiana,***[1] ***unless*** the individual has petitioned for and received an order of criminal history

[1] Indiana Code 5-8-1-38; 5-8-3-1 and IC 3-8-1-5 provide that a public officer (i.e. notary public) is disqualified from holding office, and removed by operation of law from an office currently being held, if convicted of a crime in which they might have been imprisoned for more than one year or in which the sentence imposed exceeds 6 months. Criminal disqualification applies even if the sentence is served under house arrest or on probation.

expungement under Indiana Code 35-38-9[2]. A conviction that has been reversed, vacated, set aside or "expunged" under IC 35-38-9 would not serve to disqualify a person from holding a notary commission. An act or omission that demonstrates a deficiency in competence, honesty, integrity, or reliability includes:

(1) Any failure to comply with the requirements of this article or rules adopted under this article.
(2) Any deceitful, dishonest, or fraudulent statement or omission made during the application for a commission.
(3) Any conviction for a felony offense or a crime involving deceit, dishonesty, or fraud.
(4) An adverse ruling or admission of liability in any legal proceeding pertaining to deceit, dishonesty, or fraud.
(5) Any failure to discharge any duty required of a notary public.
(6) Any use of false or misleading advertisements.
(7) Use of any false or misleading statement claiming a right or privilege that the notary public does not have.
(8) Any denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state.
(9) Any violation of a rule or requirement that:
    (A) pertains to a notary public; and
    (B) is required by the secretary of state.
(10) Any failure to maintain an assurance as described in IC 33-42-12.

Note: because laws describing criminal convictions which would disqualify a person from receiving a notary commission or continuing to serve as a notary public are not specific to the notary statutes (Indiana's disqualification laws apply to *all* elected and appointed public offices in Indiana) the applicable statutes are not found within the notary statute, but are located in other sections of the Indiana Code.

f) Obtain a ***$25,000.00 corporate surety bond***. "Surety bond" refers to a bond provided by a commercial insurance company or bond company licensed to conduct business in the state of Indiana. Companies offering surety bonds can be identified through an Internet search or by contacting an insurance agent. Before purchasing a surety bond, an applicant should verify that the provider is registered with the Indiana Department of Insurance and authorized to provide bonds in Indiana. The Indiana Secretary of State will review the bond that is submitted with a notary application and determine if the bond is acceptable. A notary must have an effective bond for the duration of the commission.

[2] You may find details on the Indiana Criminal Record expungement law here: http://iga.in.gov/legislative/laws/2015/ic/titles/035/articles/038/chapters/009/.

g) Obtain an Indiana State Police limited criminal history record available here: https://www.in.gov/ai/appfiles/isp-lch. The record must then be uploaded as a component of the online application. An Indiana State Police limited criminal history record must no older than thirty days at the time of submission. After purchasing an Indiana State Police limited criminal history record an applicant will only have digital access to the record for two weeks unless the file is downloaded.

Applying for an Indiana Notary Commission

Applicants seeking a notary public commission should verify they meet the minimum age, residency or employment, identification, clear criminal history and bond requirements before submitting an application and fees for a notary public commission. Applications are **only** accepted by electronic submission and filing fees are **non-refundable**. Go to https://inbiz.in.gov/certification/notary for detailed instructions and information on applying.

Upon receiving a notary public commission, the notary should review their certificate of appointment for accuracy (ensure that your first, middle, and last names are spelled correctly). Notaries are responsible for verifying that the information on their certificate of appointment and on the list of notaries public is correct.

Until you receive your commission you are not authorized to perform notarial acts. Purchasing your bond or any notary supplies does not authorize your to perform notarial acts.

Maintaining an Indiana Notary Commission

A notary public has two ongoing requirements to maintain their notary commission.

Continuing Education

Effective July 1, 2020, notaries must complete a continuing education course and exam every two years per Indiana Code 33-42-12-2(b). The continuing education course will be offered on INBiz and will take approximately two hours to complete. A continuing education reminder will be mailed to the address on record. You can check your continuing education due date by linking your notary commission on INBiz or searching your commission on INBiz. Failure to complete the education requirement will result in administrative action against the notary public up to, and including, revocation of the notary public's commission.

The deadline to submit a continuing education course and exam will be the last day of the month of the notary's commission issuance date every two years. Continuing education courses may only be completed within 90 days of the due date. The fee to complete the continuing education is $50.

The continuing education course is offered through INBiz. Education courses taken or completed outside of INBiz are not accepted at this time.

Failure to complete the continuing education by the due date every two years will result in the automatic expiration of the notary public commission.

You may find your continuing education due date at https://mylicense.in.gov/EVerification/Search.aspx.

Notification of Change of Information

A notary public must notify the Secretary of State within thirty (30) days of the change of any of the following information associated with the notary public per Indiana Code 33-42-12-3(a).

- Name
- Mailing address
- Personal email address
- Personal telephone number or
- Their employers name, address, or phone number

If a notary public changes his or her name, he or she will be required to file a bond rider or other record issued by the notary's surety company reflecting the change in name. The notary public will also be required to submit a new signature sample to the Secretary of State's office.

Notaries who need to update their commission information, or who wish to terminate their commission, can do so online by following the links on the following web page: https://INBiz.in.gov/certification/notary

Notaries who require assistance with updating their commission information or terminating their commission may contact the Secretary of State – Business Services Division:

Email: Notary@sos.in.gov

Phone: 317-234-9768

Any notary who:

- Is convicted of a felony offense involving deceit, dishonesty, or fraud; or
- Is found to have acted deceitfully, dishonestly, or fraudulently in any disciplinary or legal proceeding; or
- Has a notary commission denied, restricted, or revoked in another state must notify the Secretary of State's office within fourteen (14) days per Indiana Code 33-42-12-3(c).

The commission of a notary who is no longer a citizen or resident of Indiana or is no longer primarily employed in Indiana, shall notify the Secretary of State and subsequently their commission will be treated as resigned per Indiana Code 33-42-12-3(d).

Indiana Public Officials that may Perform Notary Functions

In addition to commissioned notaries public, the following public officials and designees may authenticate documents and subscribe or administer oaths and affidavits:

- Official court reporters.
- Judges and justices of courts in their jurisdictions.
- The Secretary of State.
- The Clerk of the Supreme Court.
- Mayors, clerks, clerk-treasurers of towns and cities and township trustees, in their respective towns, cities and townships.
- Clerks of circuit courts and county commissioners in their respective counties.
- Judges of the United States District Courts of Indiana, in their jurisdictions.
- Commissioners of U.S. District Courts of Indiana, in their jurisdictions.
- Precinct election officers and absentee voter board members.
- Election commission members, election division co-directors and election division employees.
- County auditors in their counties.
- Members of the Indiana General Assembly (anywhere in Indiana).
- Indiana Guard adjutant general and designees.

See Indiana Code 33-42-9-7 as added by P.L.128-2017, SEC.18.

Generally executive officers of state agencies and designated deputies may authenticate documents and administer oaths in connection with matters concerning their respective agencies and offices. For example, the commissioner of the Indiana Bureau of Motor Vehicles and designated deputies may authenticate signatures on vehicle titles and automobile sales affidavits handled by their agency. They do not have authority to provide general notarial services or provide authentications or acknowledgements concerning matters unrelated to their agency's authority and jurisdiction.

Duties and Responsibilities of a Notary Public

The general function (and responsibility) of a notary public is to serve as an independent, disinterested public official in acknowledging (verifying) the identity of individuals and the actions of those individuals in signing documents or making sworn statements (i.e. an affidavit or

an oath). In performing these duties notaries must verify identities and confirm that individuals understand what they are signing or affirming under oath.

> A ***notarial act*** (where a notary signs, provides required information and affixes their seal) constitutes the ***notary's*** independent, sworn verification, or attestation, that the signature, affidavit or oath represented in a document actually happened and that the notary verified the party's identity and witnessed or performed the acts indicated. A notary documents and memorializes a notarial act by signing the a certificate and applying their notary seal. In addition to the notary's signature and seal, a certificate must include the notary's printed name, county of residence and commission expiration date.

The following is an example of a typical notary certificate that would appear at the bottom of a legal document:

On June 3, 2020 before me Nancy N. Notary , Notary Public, personally came and appeared, Susie Signer, resident of Kokomo, Indiana over the age of majority, who after taking an oath, swore under the penalty of perjury that he has read and understands the terms of the aforesaid contract and agrees to be bound by the terms and conditions provided therein.

Signed: Susie Signer

State of Indiana
County of: Boone

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
Howard county.

In some cases a document or transaction may only call for the date, notary's signature, printed name, county, commission expiration date and seal immediately after the place provided for a party's signature:

Signed: Susie Signer Date: **June 3, 2020**

State of Indiana
County of: **Boone**

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
Howard county.

In ***every*** case a notary must comply with specific requirements in the Indiana notary statutes. In ***some*** cases, parties to a transaction or style of the documentation may call for a notary to perform specific actions. For example, an oath/affirmation may call for a notary to verify a signer's identity by examining a government issued photo-ID and attest that a person raised their hand and repeated a specific oath or statement, under the penalties of perjury, etc. The notary's signature and seal serve as verification that what the notarial certificate says happened, is what actually happened. A notary should always carefully read any part of a document that calls for the notary's attestation (i.e. signature and seal) to assure that at the conclusion of the act, the document accurately represents who appeared and what took place.

Assuring the accuracy and truth of the matters to which a notary attests is the most critical and essential function of a notary public. The notary public's attestation is intended to serve the parties to the immediate transaction (signature) or act (affidavit or oath) as well as any other party (now or in the future) who may have an interest in the transaction or event, and the general public at large. The accuracy and authenticity of a notarized document or notarial act might be examined and challenged at any time in the near or distant future. Careful attention to notarial duties will serve to minimize questions and disputes about the authenticity of the parties and their actions. A notary's inattention to detail and requirements can lead to unnecessary disputes, subjecting parties and the public to expense, uncertainty, and inconvenience. Moreover, a notary who fails to faithfully adhere to the requirements for their official acts may be subject to disqualification, civil damages, and even criminal penalties.

Notarial Certificates

Selecting the Notarial Certificate

You may be confronted with a situation in which you are asked to notarize a document with no notarial certificate or the wrong notarial certificate attached. Although you may want to suggest or automatically provide the correct certificate, your role as a notary public does not allow you to do so. Notaries public may not give legal advice nor can they draft documents; only attorneys can do so. The notary public could be held liable if the certificate is incorrect. **Notaries public should never take it upon themselves to select or substitute a certificate on behalf of a person**.

If there are concerns, you may recommend that the client reexamine the document and consult with an attorney to obtain the proper certificate. If your client insists that the certificate is correct, you have the option of refusing the notarization or performing the notarization and putting a note in your journal saying that the client insisted the certificate was correct. A notary public is free to have the client review the types of certificates and allow them to choose the one they feel is correct. For more information on the various types of certificates, see **Appendix V** of this guide. However, the notary public should never select the certificate for the person.

Steps to Complete a Notarial Certificate:

1. **Do not advise or select the certificate for the client.** If you do so, you would be illegally practicing law.
2. **The certificate must fit the notarization**. Different types of certificates fit different forms of notarizations. Ask the client to contact the sender or the recipient to confirm which type of certificate is appropriate.
3. **Read the certificate carefully.**

    - If it says, "subscribed and sworn," make sure you administer an oath and witness the signature.
    - "County" is where the notarization took place. Since Indiana notaries have state-wide jurisdiction, the county of the notary's residence may be different.
    - Pay close attention to the name blanks. In a certificate that says, "Before me, _____, personally appeared_____", the notary's name is entered in the first blank and the signer's name is entered in the second blank.
    - Fill in all the blanks. If you are unsure of what to put in a blank, talk to the signer and get the correct information. If he/she does not know, then you may have to speak to the recipient or the sender to complete the certificate.
    - Draw a line to fill extra space. For example, if the signer's name does not fill up the whole blank, draw a line through the remaining portion. This ensures that no one will be able to add on to the certificate after you have notarized it.
    - Cross out any incorrect/inappropriate wording. For example, for a male signer, cross out "she" in the clause "he/~~she~~ executed it". The certificate should read smoothly and leave the reader no doubt exactly who did what and when.

- Make sure all elements of a proper certificate are included. For example, the jurisdiction, name of the signer or signers and date.

4. **Do not just "stamp and sign".** If there is no notarial certificate, you should create the certificate that your client is requesting. If there is no room on the document, attach a loose certificate.
5. **Identify the signer.** If you are creating a certificate, recall that the certificate must identify the signer. For example: "by Jane Doe".
6. **Affix the notary signature and stamp properly.** The stamp should go in the immediate left or right of the notarial certificate and notary signature. Do not put the stamp over the abbreviation "LS" because this could obscure words or writing.

    - The imprint of the stamp must be legible so that it can be copied. If the stamp gets smudged and is not legible, then re-stamp close to the original and initial the original.
    - To be recorded, the notary stamp, certificate and notary's signature should be close enough to be put onto one image. The certificate cannot be on one side and the signature and stamp on another. The stamp may be placed in the margin, but indicate this with a note detailing the location of the stamp.
    - If there is no space on the signature page for the notary stamp, attach a loose certificate or type out the certificate on the back of the document, sign, and affix your notary stamp. Check with the receiver before typing on the back.

Beware of "Loose" Certificates

An attached or "loose" certificate should be filled out like any other notarial certificate with the addition of a few details. Because a loose certificate is not an original part of the document, it is important to protect it from fraud. The goal is to ensure that the certificate is used with one and only one notarization and only with the document for which it was intended.

Any notarial wording on the document should be crossed off and replaced with "SEE ATTACHED NOTARIAL CERTIFICATE".

- Attach the certificate to the left-hand margin using a staple or another type of fastener that will make holes if torn out.
- The certificate should be above the signature page and directly above the signature.
- The document's date, type and signer should be noted at the bottom of the certificate. You may also want to indicate the number of pages as an additional safeguard. For example, attached to the declaration, signed by John Hancock on July 4, 1776, two pages.
- Make a note in your journal of the loose certificate.
- An embosser is also an additional safeguard that can be used to protect against fraud. The impression should rest half on the signer's page and half on the certificate. Put a whole impression on the certificate as well so the auditor has a comparison.
- Attach the certificate yourself.

Making Corrections

To make a correction to the notarial certificate during the notarization

- Do not use white out.
- Draw a line through the mistake in ink and print the correct information immediately above the mistake with your initial and date by it.
- Reapply your notary stamp if it has been smeared and initial the original smeared stamp impression.
- Record any changes in your journal.

To make a correction to the notarial certificate after the notarization:

- Do not allow anyone to change your certificate. It is your responsibility as a notary public to correct errors and omissions on the certificates you complete.
- Never send a completed certificate for someone else to attach. The document should be returned, and you must attach the corrected certificate personally.
- Make corrections on the certificate by either filling in missing information or drawing a line through the incorrect information in ink. Print the correct information with your initials and the date nearby.
- Do not make a correction until you have confirmed it from the entry in your notary journal entry, or the signer can verify the change.
- Record any changes in your notary journal**.**

Types of Notarial Certificates

- Acknowledgment in an Individual Capacity
- Acknowledgment in a Representative Capacity
- Verification Upon Oath or Affirmation
- Witnessing or Attesting a Signature
- Certifying to a Copy of a Document

Notary Seal

A notary seal may be a rubber stamp or type that embosses an impression on paper. At minimum the seal must contain the following information:

- The words: “Notary Public”
- The words: “state of Indiana”
- The word: “seal”
- The name of the notary public, exactly as it appears on the notary public’s commission certificate
- The words: “commission number” followed by the commission number of the notary public (commission numbers are now listed in the form of NP0xxxxxx)

- The words: "my commission expires" followed by the expiration date of the notary public's commission

If a notary's seal contains all the above information, in most cases a notary will only need to sign, date and seal a document to complete a notarial act.

The State of Indiana does not supply notary seals. Notary seals may be purchased from notary service companies, notary associations or office supply companies.

Notaries are responsible for safeguarding against misuse of their seal. Notaries should keep their seal in a secure location to avoid loss or use by anyone other than the notary. Use of a seal by anyone other than the notary is illegal. When a notary discontinues their service, their seal should be destroyed or disfigured to prevent fraudulent use.

Jurisdiction of a Notary Public

The term "jurisdiction" means authority with respect to the parties, subject matter and place. Indiana notaries have authority to authenticate or attest to affirmations and oaths for persons or authorized representatives of organizations located in the state of Indiana. Notaries have authority to perform notarial acts anywhere in the state and nowhere outside of the state.

For example, a resident of Ohio may visit a bank in Indiana to obtain a mortgage on their home located in Ohio. An Indiana notary may authenticate the signature of the Ohio resident, if the signing, affirmation and notarization take place in Indiana. An Indiana notary is not authorized to perform a notarial act in the state of Ohio, even on behalf of an Indiana employer.

The jurisdiction of other Indiana notarial officers (elected and appointed public officials who are authorized to perform certain notarial acts without a notary public commission) is generally limited to the jurisdiction of the public office. For example, the notarial jurisdiction of the mayor of a city is limited to the mayor's city. The notarial authority of a county clerk of court is limited to their county. The notarial authority of most public officials is also limited to official matters pertaining to their office. For example, the Bureau of Motor Vehicles Commissioner and his or her deputies, may authenticate affirmations and oaths in connection with issuing driver's licenses and vehicle registrations, but may not notarize a mortgage or contract to purchase real estate.

Conflicts of Interest

A notary may not perform a notarial act for oneself, one's spouse or any party that may benefit any of these described persons. (Indiana Code 33-42-13-3). Documents concerning ***property rights*** are generally important and can have a long-lasting effect. A notary may not take the acknowledgment of anyone's signature or affirmation on a transaction document concerning or effecting property rights that the notary is (or may become) a party to. This prohibition could

apply even if the notary's name does not literally appear on the document or instrument. For example, a notary should not take the acknowledgment of a real estate deed transferring real estate to a company the notary has an ownership stake in. Also, it would be wrong for a notary to authenticate the will of a relative if the notary might inherit property – even if the notary is not specifically named in the will. A notary could be a party to a will devising property "in equal shares to all my surviving children" if the notary was a child of the devisor, even though the notary is not specifically named in the will.

Notaries are expected to be impartial witnesses to the signatures and acknowledgments of others and be free of any motivation to affirm anything that is not entirely true or accurate.

A notary should never authenticate the signatures of a husband and wife if the notary did not witness or otherwise affirm that each spouse actually signed the document. The claim that a husband signed an important document for his wife – or a wife for her husband – when the notary did not actually witness the signing of each, is a common source of notary complaints, disciplinary sanctions and litigation.

Documents to be Recorded

As of July 1, 2020, documents that must be recorded, such as real estate transactions, now require a proof per IC 32-21-2-3. Remote notaries are not authorized to perform proofs. Therefore, documents to be recorded cannot be remotely notarized in Indiana.

Certified Copies and True Copies

A ***certified copy*** is a copy of a record (i.e. of a government agency, university or school, health care provider, insurance company etc.) that can only be issued by the original issuing organization or agency or a specifically authorized agent of the original issuer. Only the state or county agency that prepares and maintains birth and death certificates can issue certified copies of these documents. A certified copy of a school attendance record or grade transcript can only be issued by the school or an organization it authorizes to provide certified copies of its records. Only the Bureau of Motor Vehicles can issue a certified copy of driver's record and only a Clerk of Court can issue a certified copy of a court record.

If a certified copy of an official record is appropriately stamped or marked, it will generally be accepted at face value as the same as the original official record. For example, when a person applies for a U.S. passport, they will be required to present either their original birth certificate or a certified copy of their birth certificate that has been issued by the State of Indiana.

A notary public ***does not*** have authority to create or ***certify*** copies of official records or documents.

A **true copy** is a copy of any document containing a notarized affidavit or attestation of the person who made the copy, or is in a position to know, that it is an accurate, "true" and complete copy of an original. Generally, a notary can notarize or attest to an affidavit that a copy is a true copy of an original. Some authorities in some cases will accept a true copy in lieu of an original or certified copy. In other cases, such as applying for a driver's license or U.S. passport, authorities will only accept original or certified copies, and will not accept true copies.

Identification

Require the personal appearance of your signer. The person signing the document must physically be in your presence for the notarization to be valid.

Make careful identification of the signer. There are three possible ways for a notary to verify the identity of a signer: ***Identification documents, personal knowledge*** or ***credible witness***.

Identification Documents – The following types of identification may be used to positively identify a client, as long as they are **current** and **or not expired for more than three (3) years**:

- A driver's license or identity card issued by any state;
- A U.S. passport or an officially recognized passport of a foreign country;
- A U.S. military identification card;
- An identity card issued by a federally recognized Indian tribe; or
- At least one current document issued by the federal government or a state, county, or other local government which contains the person's photograph.

Personal knowledge – A notary may claim to know the signer personally if at least one of the criteria is met:

- A long-term relationship. You should not use personal knowledge as identification for someone your boss introduced you to this morning.
- Sufficient breadth of knowledge. You should know more about the individual than what a nodding acquaintanceship would bring.
- Absolutely certain. You must have no reasonable doubt in your mind that the signer is who he or she claims to be. The test is whether you would be willing to swear to the person's identity in court.

Credible Witness - The notary personally knows someone who swears that he or she personally knows the signer. In order to use the credible witness as identification, the following must be met:

- The notary must personally know the witness or identify the witness through an identification document listed above.
- The witness must personally know the signer.

- Both the witness and the signer must be present during notarization.
- The witness must take an oath from notary. A sample oath/affirmation would be: "*Do you swear (or affirm) that you personally know this document signer to be the individual he/she claims to be (so help you God)?"*
- The witness should be honest, competent, and impartial.

Notarizing in Special Circumstances

A notarial act creates a legal presumption that the party that signed or swore did so knowingly and willingly. This can be especially relevant in the case of minors or persons who have physical or mental impairments or disabilities. A notary is not an attorney or legal advisor and is not expected to explain the details and ramifications of documents to people before they sign or affirm them. However, notaries may not:

- Take the acknowledgment of, or administer an oath to, a person the notary actually knows: a) has been adjudged mentally incompetent by a court (or); b) to be under a guardianship.
- Take the acknowledgment of any person who is blind, without first reading the instrument to the blind person.
- Take the acknowledgment of any person who does not speak or understand the English language, unless the nature and effect of the instrument to be notarized is translated into a language which the person does speak or understand (**see Indiana Code 33-42-13-3**).

The notary must make a judgment that the signer is aware of what they are signing. A notary should not authenticate a signature or take the acknowledgment of a person if it is apparent, or suspected that a person is incoherent, disoriented, intoxicated or otherwise incapacitated. Notaries should advise parties to obtain legal advice before affirming or authenticating important documents or transactions for persons who may have legal, physical or mental impairments, such as:

Minor children.
Persons who are blind or deaf.
Persons who are mentally incapacitated or illiterate.
Persons who are seriously ill or dying.

Note: A notary may take the acknowledgment of an individual who is illiterate or physically incapable of signing their name, if the individual signs their name with a mark, such as an X. The notary must confirm that in making the mark the individual indicates their understanding and acknowledges their signature.

If there are questions about a party's identity or legal, mental or physical capacity to understand and acknowledge a transaction or document, a notary may document any special circumstances, actions taken to affirm a party's identity or capacity and any additional witnesses to the

transaction or notarial act in the certificate of notarial act. Such additional information may be quite helpful to fact finders if a document is questioned at some point in the future.

Notaries Who Are Employees

A notary is not required to provide notary services to the general public and may not be compelled to do so. However, a notary may agree, and thus be bound, to provide notarial services as a matter of employment, or at the direction of their employer. For example, a bank may employ notaries and authorize them to provide notarial services only for the bank's clients.

A notary providing services behalf of an employer is still required to exercise their independent judgment and authority and is still personally responsible for the accuracy and legality of their notarial acts. For example, a notary must not attest to the signature of person they do not personally know or witness signing – even if their employer instructs them to do so.

An employer may supply or pay for a notary employee's commission fee, official seal and surety bond. An employer may discontinue providing bonding for a notary at termination of an employee's employment. However, the seal or stamp, regardless of who purchased it, belongs to the notary public and should be retained by them. In these cases a notary would need to obtain his or her own bond if he or she intended to continue to perform as a notary after his or her employment.

Depending on the circumstances, an employee hiring a notary to provide notarial services may be liable for the actions and official acts of a notary employee. Employers of notaries and employed notaries are advised to obtain professional legal advice concerning their liability and professional responsibilities.

Fraudulent Advertising and Notario Publico Law

A person who knowingly or intentionally advertises using the title notary public without including the prescribe notary statement required by Indiana law in the advertisement, on a business card or on the person's letterhead, or advertises or claims to be an expert on immigration matters without being a designated entity or who accepts payment in exchange for providing legal advice or any other assistance that requires legal analysis, legal judgment, or interpretation of the law commits "notario publico deception."
(See Indiana Code 33-42-13-3).

Notario publico deception, a Class A misdemeanor, is fraudulent advertising or misrepresentation by a notary who is not an attorney in good standing and admitted to practice law in Indiana. It is illegal for a notary public in Indiana who is not an attorney to advertise without including in the advertisement the following statement: "I am not an attorney licensed to practice law in Indiana. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If this statement is required to be

made in a written advertisement, it must appear in a conspicuous size. If the notary statement is required to be made in a spoken advertisement, it must be spoken at normal speed and at a normal volume.

Notary Fees

The maximum fee a Notary Public may charge is ten dollars ($10) per individual notarization. (Indiana Code 33-42-14-1). Notaries may bill a customer separately for incidental costs and services such as travel. Notaries may charge no more than the federal mileage rate as a travel fee. The current federal mileage rate can be found by visiting the IRS website. Notaries should inform clients in advance of any service fees that may be charged above the $10.00 per notarization fee.

Secretary of State Apostilles/Authentications

As a notary public you may receive requests for notarizations in order that a person may then request an apostille or authentication from the Secretary of State. We have included this information so that you will have a basic understanding of the process and when documents require an apostille or authentication.

One of the functions of the Secretary of State is to issue apostilles and authentications. An apostille or authentication is a certificate that authenticates the origin of a public document (e.g. birth, death and marriage certificates, judgements or notarial attestation) by validating the official's signature. An apostille or authentication can only be issued for documents that are issued in one country and are to be used in another country. Most documents (other than birth, death and marriage certificates) must be notarized before an apostille or authentication is issued. The Secretary of State examines the notarization, compares the notary's signature and seal on the document to the signature and seal sample on file with the office. The office also confirms the notary has an active status prior to issuing the apostille or authentication. The Secretary of State does not examine the underlying document and the issuance of an apostille or authentication does not give any additional weight to the underlying document.

For additional information on the authentication certificates, please visit: http://www.in.gov/sos/business/2377.htm.

Constitutional Prohibition on Dual Office Holding

Indiana Constitution (Article II § 9 and Article III § 1) prohibit the holding of two lucrative offices at the same time which is commonly referred to as "dual office holding." In 2012, Indiana Code 33-42-2-7 was amended to specifically clarify that a notary public commission is not a "lucrative office" and therefore elected and appointed public officials can simultaneously hold a notary public commission.

Section (b) of the statute indicates, however, that a public official may not charge a notary fee for administering attestations, affirmations or oaths in performing their official office duties. For example, a township tax assessor may also be a commissioned notary public. However the tax assessor may not charge taxpayers a fee for authenticating filed tax returns, because that is a duty of the office of tax assessor. In 2018, this section was renumbered and can now be found in Indiana Code 33-42-12-1(k).

The Office of the Indiana Attorney General has published an informative Dual Office Holding Guide which provides a four-part legal analysis that public officials may apply in order to determine whether accepting a second public service position violates the law. The Dual Office Holding Guide may be found here:
http://www.in.gov/attorneygeneral/files/Dual_Office_Holding_Guide_2010.pdf.

Those reviewing the Guide should recognize that even if serving in two positions does not result in a constitutional violation, it may violate the constitutional doctrine of separation of powers, create a conflict of interest or public policy concern, or be prohibited by another federal, state or local law. All public officials should read this Guide and seek legal advice from an attorney before accepting a second public service position.

Real Estate and Loan Closings; Title Agents

Real estate transactions can be complex, often involving mortgages, promissory notes, contractual terms, title examinations, title insurance, recording and releasing of title and liens, etc. The role of a notary in a real estate transaction is limited to authenticating and attesting to the signatures of sellers and buyers. Notaries are cautioned to be careful not to stray into the territory of providing legal services or giving legal advice.

Pursuant to Indiana Code 27-1-15.6-18(4), an Indiana notary may not engage in a real estate loan closing involving the issuance of title insurance (which includes virtually every real estate loan) without first obtaining a *limited insurance producer license* from the Indiana Department of Insurance. Any person who conducts a real estate closing on behalf of a title insurance company must be licensed. See Appendix III for additional information.

Contact the Indiana Department of Insurance for information about applying for a license to conduct real estate closings:

Indiana Department of Insurance
Attn: Agency Licensing
311 West Washington Street, Suite 103
Indianapolis, IN 46204

Fax: 317-232-5251
http://www.in.gov/idoi/

See Appendix III, "Title Insurance Producer License for Notaries Conducting Real Estate Closings" for more information.

Blank Documents and Undated, Post-Dated and Anti-Dated Notarial Certificates

A notary must never notarize a blank document, a document that has not been signed by the parties, or a document that contains blank spaces with omitted information such as parties who are not present before the notary.

If a document must be signed and/ sworn to or affirmed by multiple individuals, a notary may not complete the notarization without ALL the information and signatures and ALL signers must appear before the notary. This situation is often encountered where both a husband and wife are required signatories on a document. If both spouses are not present and signing at the same time, a notary must indicate this by providing a separate notarial certificate for each spouse.

A notary should never complete a notarial certificate that is undated or that has been inaccurately post- or anti-dated. A notary may correct an incorrectly dated notarial certificate by striking and initialing the incorrect date and writing in the correct date. Notaries should be wary of and protect against facilitating fraudulent documents or activities.

Notary Associations and Resources

Notary organizations provide useful information to notaries and the public. However, the state of ***Indiana does not endorse or require notaries to be a member of any notary organization*** or to purchase bonds, or supplies from any notary organization or business.

Links to Common Notary Organizations:

- American Society of Notaries: http://www.notaries.org/
- National Notary Association: http://www.nationalnotary.org/
- Indiana Notary Association: http://www.indynotaries.org/

Notary Liability

A notary public who fails to carry out notary duties correctly may be subject to civil liability for any damages caused by the failure or error. If a complainant is awarded damages by the court the notary public's bond insurance provider will pay the damages up to the amount of the surety

bond ($25,000), then seek reimbursement from the notary public for the amount paid. Any outstanding damages above $25,000 will be collected directly from the notary public. A notary may purchase an errors and omission policy if they wish to protect themselves financially. If the notary's action enables a forgery, false writing or other crime to occur, the notary also may be held criminally liable as an accessory to the crime. Additionally, the Secretary of State may revoke the notary's commission.

Misconduct

Negligent or purposeful improper notarization is called "misconduct". Misconduct can be either intentional or unintentional.

Intentional misconduct is deliberate disobedience of notarial statute that seeks to benefit the notary is some way, often to defraud the signer of or a party to the document.

Unintentional misconduct is a negligent error or failure of duty in performing a notarization. Most, but not all, misconduct is unintentional, either by a notary failing to do everything the law requires, or attempting to assist beyond what the law allows.

Common examples of misconduct include:

- Not requiring personal appearance of the signer;
- Failing to attach the notary seal;
- Neglecting to attach the notary public's date of expiration of commission;
- Failing to sign the notarized document;
- Omitting names and dates from the documents; and
- Not having a notary certificate (e.g. only stamping the document).

Notaries must not give legal advice. This includes telling a person to follow a legal procedure or suggesting specific steps they must take in order to accomplish a desired legal outcome. As a notary, you may think you know what the law says to do, but you may open yourself up to a lawsuit by providing legal advice even if you are right.

Notaries must not prepare documents. Do not draft documents or complete spaces with answers or information in forms, even as a favor. In addition, you may not advise a customer of the type of notarial act for their document. You may not suggest or select the proper notarial certificate either. You may refuse to notarize until they have talked with an attorney to obtain the answers to these questions. It takes an attorney to know what is legally appropriate for a document.

Liability

Because many documents rely on the validity of a notarization, breaches of notarial law are taken seriously. There are two kinds of penalties notaries can incur for their misconduct: civil and criminal penalties.

Civil penalties are the most common. If a notary, through carelessness or inaction, intentionally or unintentionally damages the complainant, they may be liable for monetary damages. For example, if an improperly notarized grant deed causes a deal to fall through, and that deal costs the signer thousands of dollars, the notary may be sued by the signer to recover the losses.

Criminal penalties may apply if the notary's act enables a forgery, false writing, or other crime to occur. In these cases, the notary has intentionally committed misconduct and is therefore subject to be prosecuted in the same manner as any crime.

Protecting Yourself

Many situations a notary public can potentially encounter are not precisely spelled out in law. The law gives general rules for responsible conduct but relies on the notary's common sense to properly evaluate each situation. For example, notaries may use a driver's license to identify a signer, but if the ID looks false (has a tampered photo, obviously incorrect date of birth, etc.), then the notary has a duty to act appropriately. *The best defense against liability is to take reasonable care while notarizing. Understand what the law requires of you and act accordingly.* You may wish to purchase a supplemental errors and omissions policy which covers liability you may incur for a mistake made while notarizing a document.

If you are ever unsure of how to proceed, it is best to ask. You may contact the notary department by email notary@sos.in.gov. Please remember that we cannot give legal advice. To ensure that you are in compliance with the law, it is strongly suggested that you consult an attorney.

You may also protect yourself by keeping an optional notary journal, which is our next topic.

Notary Journals

Notaries in some states are required to keep a record of all notarial acts they perform in a journal of notarial acts. Indiana does not require notaries to maintain a journal of their notarial acts. Leading notary associations recommend that notaries maintain a journal, both as a good professional practice and as protection in the event the notary is accused of fraud or malpractice. The Secretary of State's office strongly recommends that notaries record all their notarial acts in a notary journal. This record of acts can protect the notary in case of a lawsuit. Journals can be electronic or paper and purchased from notary associations, notary service businesses and office supply stores.

The notarial journal is a vital way for a notary to exercise reasonable care. If anyone wishes to make inquiries about a notarization, few people can trust their memory to recall the details of a notarization performed months or years before without referring to a journal. The journal reminds a notary to ask each customer for information that may be important down the road. The journal can even help prevent a notary from being named in a lawsuit.

Recommended Notary Journal Entries

For each notarization, record the following information in your journal:

- Date and time of the notarial act
- Type of notarial act performed
- Date of the document, if any
- Type of document notarized (i.e. will, contract, deed, etc.)
- Name of the signer
- Description of how the notary public identified the signer
- Fees collected, if any
- Any other pertinent information
- Unusual circumstances such as reason for refusal to notarize, etc.

Additional Notarial Acts That May Be Recorded in the Notary Journal

- Administering an oath or affirmation;
- Affidavits;
- Billing Statements for media advertising;
- Certifying or attesting a copy of a document; and
- Verifications upon oath or affirmation.

Examples of Notary Journals and Entries

Basic Notary Journal Layout

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature of Customer	ID	Additional Info	Fee

Journal Entry for Typical Notarial Acts

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature of Customer	ID	Additional Info	Fee
3/2/14	Ack.	3/2/13	Bill of Sale	James L.	*James L.*	IDL	35 copies – notarized	$350

1:30 p.m.				Howe James' Address	*Howe*	Exp 12/1/17	each copy	

Journal Entry for Two Separate Acts (Swear and Witness)

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info	Fee
7/23/14 4:30 p.m.	Swear Witness	6/4/14 6/5/14	Affidavit Deed	Deborah Smith Deborah's Address	*Deborah* *Smith*	IDL Exp 8/14/17	Two separate documents	$10 $10

Cite to Identification in a Previous Journal Entry (If Ms. Smith comes back in)

Date/Time of Act	Type of Act	Document Date	Document Type	Printed Name Contact Address	Signature	ID	Additional Info	Fee
4/11/14 9:15 a.m.	Ack.	3/27/14	Contract	See page 2 Line 3	*Deborah Smith*	See page 2 Line 3		$10

Note: While notaries who perform notarial acts on paper documents are not required to keep a journal, remote notaries must keep an electronic journal. See "Remote Notarization."

Remote Notarization

What Is Remote Notarization?

A remote notarization is a notarial act performed on an electronic record for a signer who does not physically appear before a notary as they would for a paper notarization, but who instead is in a remote location and communicates with the notary using real time, two-way, visual and auditory communication.

Any Indiana notary public who is authorized as a remote notary may perform remote notarizations. A notary is required to apply and pass an examination in order to be properly authorized as a remote notary. Performing remote notarizations is entirely voluntary.

Remote Notary Application

Before performing remote notarizations, a notary must apply with the Indiana Secretary of State to be authorized to perform remote notarizations. There are several qualifications you must meet:

- You must hold a current Indiana notary public commission with at least 90 days remaining on your current notary commission term.
- You must meet the continuing education requirements for a notary commission.
- You must complete the remote notary application. All applications must be submitted online at https://inbiz.in.gov/certification/notary#verticalTab5. Click "Apply Now" to start the process.
- You must complete the remote notarization course and achieve a passing score on the remote notary examination.
- You must be able to competently operate the software provided by your remote technology vendor.
- Pay a nonrefundable fee of $100.

Upon approval by the Secretary of State, a remote notarization authorization is valid from the date of authorization through the expiration of the notary's current notary public commission. When the notary commission term expires, a notary must renew the notary commission before applying for a consecutive remote notary authorization. The qualifications and application for a consecutive authorization are the same as the qualifications and application for an initial remote notary authorization.

Remote Technology Vendors

An Indiana remote notary must use a remote technology vendor whose system has been approved by the Secretary of State. A list of approved vendors may be found at https://inbiz.in.gov/certification/notary#verticalTab5. You must contract with at least one approved remote technology vendor, but may contract with more than one approved remote technology vendor. You must notify the Secretary of State within 30 days after you change your vendor or if you contract with another vendor. Failure to notify the Secretary of State may result in the suspension or revocation of your notary commission and remote notarization authorization.

A remote technology vendor will have an "on-boarding" process to get a remote notary set up to use their system. Typically, this will involve creating a profile in the system and creating or being assigned user credentials for accessing the system. During the profile process, the system may prompt you to upload your electronic notary seal and digital certificate (see the discussion of "Electronic Notarial Certificate' below). Please note that a remote technology vendor may charge additional fees to use their platform.

You will use the remote technology vendor's platform you identify to the Secretary of State to perform all remote notarizations. The system will provide the audio and visual communication link with the remote principal, the protocols for identifying the principal, the presentation and signing of the electronic document that is notarized, the means for recording the remote notarial act and the electronic journal entry that is required for the remote notarization. These matters will be described below.

Remote Notarial Acts and Fees

The following notarial acts may be performed as remote notarial acts:

- Taking an acknowledgment
- Administering an oath or affirmation
- Taking a verification on an oath or affirmation
- Attesting or witnessing a signature
- Attesting to or certifying a copy of a tangible or electronic record.

A notary who has been authorized to perform remote notarizations may perform "traditional" notarizations on paper documents. But it doesn't work the other way around. A notary who has not been authorized to perform remote notarization may not perform remote notarizations.

For performing a remote notarial act, a remote notary may charge a maximum fee of $25 for each remote notarial act. In addition, a remote notary may charge a reasonable fee for providing copies of electronic journal entries and audiovisual recordings of remote notarial acts.

Location of the Remote Notary and Principal

The key difference between a notarial act and remote notarial act is that the principal appears before the notary remotely (using two audio visual communication) on the approved remote technology vendor's platform rather than appearing in person. According to Indiana statute, an Indiana remote notary must always be physically located in the state of Indiana when performing a remote notarial act. A remote notary may never perform a remote notarization when outside of Indiana.

However, the principal for whom a remote notarial act is performed may be located anywhere – in or outside Indiana, or even outside the United States. Individuals located outside the United States might seek out an Indiana remote notary because they cannot find a notary where they live, or they may not be near a U.S. consular office where they could have a document notarized.

If the principal is located outside the United States, the requested notarial act must not be prohibited in the jurisdiction where the individual is located. In addition, the remote notarial act must concern a matter that is before a court, governmental entity or another entity in the United States, or concern a property located in the United States, or relate to a transaction substantially connected to a territory or jurisdiction of the United States.

Identifying the Principal

Verifying identity of a remotely located individual is especially important for ensuring the integrity of the remote notarial act because the individual is not in the remote notary's physical presence.

The first way a remote notary may identify the principal is by the remote notary's personal knowledge. If you identify a principal through your personal knowledge, you must describe your personal relationship with the signer during the recording of the remote notarization (see "Audiovisual Recording and Electronic Journal" below). Please note that not all remote technology platforms allow identification through personal knowledge.

If the remote notary does not personally know the principal, the second way the principal may be identified is by a three-step identification process. This three-step process is integrated in and carried out through the remote technology vendor's system you will be using to perform the remote notarization and is described below.

- **Remote presentation** of an identification credential (see "Identification" above for a listing of IDs that a principal may present) and **visual inspection of the ID.** The remote notary inspects the ID presented on camera and compares it to the individual on the screen just like a notary would do when a signer presents an ID for a notarial act performed in the notary's physical presence.
- **Credential analysis** of the ID credential. When a principal presents an ID, the system takes a picture of the front and back of the ID for credential analysis. The remote technology system analyzes the pictures of the ID to determine the ID is not fraudulent nor inappropriately modified and informs the remote notary of the result.
- **Identity proofing,** which may include a dynamic knowledge-based authentication assessment. The remote notarization system poses a series of five questions to the principal based on the principal's life and transaction history. The questions must have five answers each and the principal must correctly answer four out of the five questions in under two minutes.

You must confirm that the principal has successfully completed the credential analysis and identity proofing steps. Typically, the remote technology system provides a confirmation that these steps have been completed. If the principal must exit the three-step identity authentication process or the communication link between the remote notary and principal is materially interrupted, the principal must start the three-step identification process over from the beginning.

The third way a remote notary may identify a remote principal is through the oath or affirmation of a credible witness who knows the remote notary, or who the remote notary identifies through the three-step identification process outlined above.

If a remote notary cannot verify the identity of a principal using an acceptable means of identification as outline above, the remote notary must refuse to perform the remote notarization.

Audiovisual Communication

A remote notary must ensure that the principal for whom a remote notarial act is performed appears in real time by audiovisual communication. You will use the remote notarization system you select and identify to the Secretary of State in your remote notary registration for communicating both audibly and visually with a remote principal.

Indiana law mentions several requirements for the audiovisual communication used to perform a remote notarial act:

- It must provide real time audiovisual feeds (e.g., the signer cannot "appear" through a prerecorded video).
- It must provide sufficient video resolution and audio clarity for the remote notary and principal to see and speak with one another throughout the entire remote notarization.
- It must enable the principal's ID to be photographed at a resolution sufficient for credential analysis to be performed.
- It must use a means of authentication that reasonably ensures only the proper parties have access to the session (this typically is achieved by login credentials assigned and sent only to the parties involved).
- It must have a way for ensuring the remote notary and principal are viewing and signing the same electronic record that is being notarized.
- It must be able to securely create, store and transmit the audiovisual recording of the remote notarial act.
- It must ensure the confidentiality of identity proofing questions, answers and analysis, and provide security measures to prevent unauthorized access to the audiovisual communication, the recording of the remote notarization, the methods to verify the identity of the principal and the electronic documents presented for remote notarization.

When using a remote technology system, a remote notary must take reasonable steps to ensure that the session between the remote notary and remotely located individual is secure from unauthorized interception. In fact, you must refuse to perform a remote notarization if you are unable to verify the security of the audiovisual communication.

A notary public has the duty to ensure that a material breach (excluding issues or buffering that does not materially affect the substantive communication between the notary public and the signer) in the audiovisual communication does not interrupt the simultaneous communication during which all parts of an online notarial act using audio visual communication occur.

Audiovisual Recording and Electronic Journal

Indiana law requires remote notaries to keep two types of records of remote notarizations:

- An **audiovisual recording** of the entire remote notarization.

The remote notarization system you use will provide the means for capturing the recording of the remote notarization. Before you begin a remote notarization, you must inform the participating parties that the remote notarization will be recorded. You must include a statement on the recording identifying the specific remote notarial act performed and whether the principal was identified by your personal knowledge or by a credible witness. You must also require the principal to state on the recording that their electronic signature on the document being notarized was freely and voluntarily made. You must record each remote notarization whether or not the notarization is completed.

- An **electronic journal** with informational entries prescribed by law.

As is the case with the audiovisual recording, typically the remote notarization system you use will create an automatic electronic journal entry for each remote notarial act you perform. You may keep more than one electronic journal; in fact, if you use more than one electronic notarization system, then you will have separate electronic journals for remote notarizations performed on each platform. You may also keep an electronic journal that is separate from the remote notarization system you use. You may want to do this if you want all of your journal entries of remote notarizations in one place.

You must keep the electronic journal under your exclusive control (which means you must at all times keep direct physical and intellectual custody of the password protecting access to the electronic journal or other means used to secure it) and use commercially reasonable means to prevent unauthorized access to it.

The electronic journal you use must allow you to provide copies of any entry and allow inspection of the entries by others who are authorized to inspect them. If you learn that your electronic journal is lost, stolen or compromised (that is, if someone, for example, obtains your password and accesses the journal), you must notify the Secretary of State within 15 days.

For each remote notarial act, you must enter the following information in your electronic journal:

- The date and time of the remote notarization
- The type of remote notarial act (acknowledgment, oath or affirmation, verification on oath or affirmation, signature witnessing, copy certification, etc.)
- The title or description of the electronic record (document) notarized
- The full name of the principal
- A description of how the principal was identified.
- A description of any identification credential (driver's license, passport, etc.) and the credential's date of expiration

- A listing of every fee and the amount of the fee charged for the remote notarial act
- Any other information required by the Secretary of State

You may not record in your electronic journal any of the following:

- An identification number on an identification credential or passport that was assigned by a governmental agency or by the United States.
- Any other number that could be used to identify the principal of the document.
- A biometric identifier, including a fingerprint, voice print and retina or iris image.

If you happen to record one of these pieces of unauthorized information in your electronic journal, you must redact the information before allowing the public to inspect the electronic journal or making copies of any entry.

You may, however, record a mailing address of the principal in your electronic journal.

You must never delete, destroy, overwrite or render inaccessible any entries in your electronic journal unless you are ordered to do so by the Secretary of State or judicial order.

Electronic Notarial Certificate

To evidence a remote notarization, a remote notary must complete an electronic notarial certificate just like a notary completes a notarial certificate to evidence a paper notarization.

Most of the rules governing notarial certificates apply to electronic notarial certificates. The wording for the electronic certificate will depend on the type of notarial act – acknowledgment, oath or affirmation, verification on oath or affirmation, signature witnessing or copy certification – performed. A remote notary must only complete an electronic notarial certificate contemporaneously with the performance of the remote notarial act (not before or after). By completing an electronic notarial certificate, a remote notary certifies that the remote notary has complied with Indiana law. A remote notary may subsequently correct an electronic notarial certificate in the same way a notary may correct a paper notarial certificate.

But Indiana law also has specific requirements for electronic notarial certificates:

- The electronic notarial certificate for a remote notarization must include a statement that it is a remote notarization.
- The electronic notarial certificate must indicate whether the principal appeared before the remote notary public physically or by means of audiovisual communication.
- The electronic notarial certificate must specify the city and county in Indiana in which the remote notary is physically located when performing the remote notarial act.
- The electronic notarial certificate must specify the city, county, state or province and country in which the principal is physically located when the principal signs the electronic record.

Examples of the wording for an electronic notarial certificate that satisfy the requirements of Indiana law may be found in Appendix V.

Electronic Signature and Seal

A remote notary must sign and affix or attach the remote notary's electronic seal to the electronic notarial certificate. Instead of signing the notarial certificate with a pen, a remote notary signs the electronic notarial certificate using an electronic signature. Instead of affixing an image of a physical notary seal, the remote notary affixes or attaches an electronic seal. A remote notary will work with their Remote Technology Vendor to obtain an electronic seal.

A remote notary public must attach the notary's electronic signature and seal to the electronic notarial certificate in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic document tamper evident. The way this is accomplished is through the remote notary using a **digital certificate.** A digital certificate is not to be confused with an electronic notarial certificate. A digital certificate is software issued by a certification authority in the business of providing digital certificates. The digital certificate is issued to an individual – in this case a remote notary public – after the certification authority has taken steps to verify the identity of the remote notary. The digital certificate is installed on the remote notary's computer and is used to affix the remote notary's electronic signature. Once used to sign the electronic notarial certificate, the remote notary's digital certificate is used to identify the remote notary as the notary who signed the electronic notarial certificate and trace whether changes have been made to the electronic document and electronic notarial certificate.

If a remote notary cannot use the digital certificate to sign or attach the remote notary's electronic seal to make the document tamper-evident, the remote notary must refuse to perform the remote notarization.

While the Indiana Secretary of State does not endorse any company that provides digital certificates, companies issuing digital certificates include GlobalSign and IdenTrust. Some remote notarization technology platforms issue their own digital certificates to remote notaries. Before purchasing a digital certificate, you should check with your remote notarization technology system provider to ensure the digital certificate is compatible with their system.

A remote notary must never disclose any access information (for example, login credentials or a password) used to affix the remote notary's electronic signature, except when requested by the Secretary of State, law enforcement, and the courts. A remote notary may disclose access information to electronic document preparation and remote technology vendors, but only with exercising reasonable precautions.

A remote notary's official seal must contain the same information required in physical notary seals. See Indiana Code 33-42-10-2.

As is the case with your physical stamping device, if you are a remote notary you are responsible for the security of the device – software or hardware – that you use to affix your official

electronic seal to an electronic notarial certificate. If the device is lost or stolen, you or your guardian or personal representative must promptly notify the Secretary of State's office upon learning of the loss or theft. You must never allow anyone to use the device and upon the expiration, resignation or revocation of your notary commission, you must damage, destroy, erase or secure the device to preclude anyone from using it in the future. In the event of your death or adjudication of incompetency, your guardian or personal representative must do the same.

Electronic Notarization

In the last section, we discussed remote notarization, a notarial act involving an electronic record where the principal and remote notary communicate using audiovisual communication. In this section, we will discuss **electronic notarization**, a notarial act involving an electronic record where the signer or person for whom the notarial act is performed appears in the notary's physical presence.

Indiana law permits you to perform electronic notarizations with the signer physically present but does not prescribe as many rules for how to perform them like it does for remote notarization. Unlike remote notarizations, you are not required to receive additional authorization other than being an active notary public before you perform electronic notarizations. Notaries who perform electronic notarizations are not required to keep a recording of these notarizations (because audiovisual communication is not used) or enter them in an electronic journal (although the Secretary of State strongly recommends that you do). Also, unlike remote notarizations, you identify the signer or individual for whom the electronic notarization is performed using the same methods as for **paper notarizations** discussed in an earlier section of this Guide.

Despite these differences, an electronic notarization and remote notarization have many things in common, which include:

- The documents or records are electronic and electronic signatures are used to sign them.
- A technology system is used for signing electronic records just like a remote notarization, but without the audiovisual communication.
- The notary must be physically located in Indiana when performing an electronic notarization.
- The notary must use an electronic notary seal.
- The notary must use a digital certificate to render the electronically notarized record tamper-evident after completing, electronically signing, and affixing an electronic notary seal to the electronic notarial certificate for the notarial act.

Complaints and Notary Misconduct

The Secretary of State may investigate any possible violation of prohibited acts by a notary under Indiana Code § 33-42-13-1. Following the procedures found in Indiana Code § 4-21.5 and Title 75, Article 7, Rule 4 of the Indiana Administrative Code, the Secretary of State's office may take action against the commission of a notary public. This action includes denying, suspending, revoking or imposing a condition on a commission.

If the Secretary of State revokes the commission of notary public, the notary public may not reapply for a new commission for five years after the revocation. If a notary public has been convicted of notario publico deception, the notary may never reapply for a new commission.

If a notary public is convicted of notario publico deception, the judge of a court with jurisdiction in the county in which the notary resides shall permanently revoke the notary's appointment.

If a person suspects any illegal, improper or questionable acts by a notary public, they may report it to the Secretary of State's office here:
https://inbiz.in.gov/Assets/NOTARY%20COMPLAINT%20FORM.pdf.

Frequently Asked Questions

Q. What is an Indiana notary public?
A. An Indiana notary public is a person appointed by the Governor and commissioned by the Indiana Secretary of State to acknowledge and witness the signing of documents, and administer oaths and affirmations.

Q: How old do I need to be to become a Notary Public?
A: You must be at least 18 years of age at the time of appointment.

Q: Do I need to be an Indiana resident?
A: You must either be a legal resident of or primarily employed in Indiana. Indiana Code 33-42-12-1.

Q: How long is a commission good for?
A: The term of office for an Indiana Notary Public is 8 years.

Q. What is a surety bond?
A. A bond is somewhat like an insurance policy in that it can be purchased at most major insurance companies or, if you choose, through a service company. However, unlike insurance, if a claim is made against the notary's bond, the notary is liable to the bond company for the payment made on the notary's behalf.

Q. Will a freehold bond fulfill the bond requirement?
A. No. A notary public who is commissioned or recommissioned in in Indiana on or after July 1, 2018 is no longer allowed to submit a freehold bond.

Q. I am a current notary with a $5,000 bond. Do I need to obtain a new $25,000 bond?
A. No. You will not be required to obtain a new bond for your current commission. However, if you re-apply for a new commission when your current commission expires, you will be required to obtain a $25,000 bond.

Q. I am a current notary with a freehold bond. Do I need to obtain a new surety bond?
A. No. You will not be required to obtain a new bond for your current commission. However, if you re-apply for a new commission when your current commission expires, you will be required to obtain a surety bond. The Secretary of State's office will no longer accept freehold bonds for new applications.

Q: Am I required to have liability (errors and omissions) insurance?
A: No. However, the Secretary of State's office recommends purchasing errors and omissions insurance for personal protection. A surety bond is a finical safeguard for the public and does not offer financial protection for the bond holder.

Q. When may I begin performing notarial acts?
A. An appointed notary public may begin notarizing documents after receipt of a certificate of appointment from the Secretary of State.

Q. How do I renew my notary appointment?
A. A notary public may apply to renew their commission directly through INBiz. If approved, the commission will be extended another 8 years.

Q. How do I obtain my notary supplies?
A. The Secretary of State's office does not provide notary supplies. They can be purchased by bringing your commission certificate to a local office supply store or contacting a notary association.

Q: My current commission has expired and I have reapplied. May I use my old stamp until my new stamp is made?
A: No. The notary stamp expires at the time of commission expiration and the stamp with the expired date should be destroyed as soon as possible.

Q: What should I do if my notary stamping device is stolen?
A: Report the incident to the police, and then report the fact to the Secretary of State's Business Services Division.

Q: May I advertise my services as a notary public?
A: A notary public may advertise as long as they are careful about how they describe their qualifications and services. You must state that you do not offer legal advice nor can you prepare legal documents.

Q. What types of notary seals are acceptable in Indiana?
A. The notary public's seal shall either be a seal press or a rubber stamp. In either case, the notary public's seal must contain the words "notary public;" "state of Indiana;" "seal;" the name of the notary public exactly as it appears on the notary public's commission certificate; the words "commission number" followed by the commission number of the notary public; the words "my commission expires" followed by the expiration date of the notary public's commission. Indiana Code 33-42-10-2.

Q. Can information about my notary application or appointment be given to other people?
A. Yes. All notary public applications and appointments are required to be open to public inspection pursuant to Indiana law and are available in the Notary Public database.

Q. May I notarize my own signature and the signatures of my spouse, children, parents or other relatives?
A. A notary public may not notarize his or her own signature or the signatures of his or her spouse. Also, a notary may not notarize a document that may directly benefit the notary or the notary's spouse. Indiana Code 33-42-13-3.

Q. May I notarize documents when I am physically outside the state of Indiana?
A. No. A notary public only has jurisdiction to perform notarial acts while the notary public is in the state of Indiana. Indiana Code 33-42-12-1(i).

Q: Must a notary always notarize?
A: A notary is not required to always notarize. In fact, when you are in doubt because something appears fraudulent (the ID looks fake), or some other aspect of the notarizations appears amiss, you **should not** notarize. However, if it is merely discomfort because you are not familiar with the particular type of act, such as a certifying to a copy, then you should consult with either a more experienced notary public or a lawyer.

Q: May I notarize for someone in a hospital or nursing home?
A: Special care must be taken when notarizing for the elderly or those in a medical care setting. Awareness may need to be established by someone in authority (i.e. doctor, nurse, attorney). Medications can alter the customer's reasoning abilities. Consult with the signer's doctor/nurse/attorney and write down their remarks in the notarial journal have the authority sign your journal by their remarks as to the awareness of the client. Prior to notarizing, ask the client some questions about the document to be sure that they understand what they are signing and seem competent in their responses. Common sense, as well as reasonable care and caution, are the prime indicators on whether to proceed. When in doubt, do not notarize, but note why in the notarial journal and advise the client to seek legal advice.

Q: Should I notarize a blank or incomplete document?
A: Common sense would prevent most notaries from notarizing a signature on a completely blank piece of paper, knowing that a fraudulent document could be created.

Q: May the signer use a signature stamp on the document they want notarized?
A: Yes, a signature on a tangible record is a tangible symbol. A stamp, mark or other indication of execution is sufficient.

Q: May I correct a mistake I made in a notary certificate several days after it was executed?
A: Corrections can be made. Only the notary public may make corrections that are needed, and the corrections must be made on the original certificate. Note in your journal any corrections or changes that were made.

Q: A notarial certificate that was pre-printed on a document did not have a jurisdiction or a signature line for the notary. What should I have done?
A: To have a valid notarization, certain elements must be present:

- Jurisdiction- state and county
- Statement- who appeared on what day and what they did (acknowledge, sign and swear, etc.)
- Notary public's signature and official notary stamp imprint.

- When a certification is not complete, the notary public can add the necessary information. In the case mentioned above, the notary public should type or hand write at the beginning of the notarial certificate the jurisdiction where the notarization was taking place and then create a signature line near where the official notary stamp was placed.

Q: May I choose a notarial certificate to go on a document?
A: No, you do not have the legal rights to do so.

Q: When using an attachment certificate, must I always put a complete stamp impression on the attachment?
A: When using an attachment certificate, a complete imprint of your official stamp must be on the attachment certificate. A second imprint may overlap the document and the certificate as a protection device.

Q. Why does the notary block have blanks for state and county, and how do I fill them out?
A. The beginning of each notarial certificate should include jurisdictional information that indicates where the document was notarized, similar to the following: State of _____), County of _____). This information indicates where the notarial act took place. The notary public completes the venue block by inserting "Indiana" and adding the county where the notarial act occurred. An Indiana notary can notarize documents in all counties of Indiana.

Q. Should I keep a log book of notarizations which I perform?
A. There is no statutory requirement in Indiana that a notary public keep a log book or journal. However, it is recommended that a notary public keep one for his or her own records and protection from liability.

Q: May I choose not to keep a notarial journal?
A: Yes. Indiana law does not require notary publics to keep a notary journal but it is highly recommended.

Q: What if I have multiple entries for my journal?
A: Duplicate originals with the same name and date may be recorded as a single entry in the notarial journal.

Q: Should I keep copies of every document that I notarize?
A: No, a notary should not keep copies of the documents they notarize. Your journal entry is sufficient evidence for the purpose of recording a notarial act. If a notary should keep an original record provided by a person for notarization, the notary may not withhold access to the original record. However, the Secretary of State strongly recommends that notaries do not keep such records.

Q: Should I keep copies of identification that I use to identify the signer?

A: No, a notary public should not keep copies of identification that they use to identify the signer. Your journal entry is sufficient evidence for the purpose of recording how you identified the signer.

Q. Can my employer keep my Commission paper after I leave my job?
A. An employer cannot keep the notary's commission. A notary commission is personal to the notary public.

Q. How do I report a change in my name or address while I am serving as a notary public?
A. A notary public must report the change to the Secretary of State through the online service by selecting "License Update" from the link below:
https://INBiz.in.gov

Q. What are the most common errors or omissions made by notaries public in notarizing documents?
A. The most common errors by notaries public in notarizing documents are:
(1) Failing to attach the notary seal;
(2) Neglecting to attach the notary public's date of expiration of appointment;
(3) Failing to sign the notarized document; and
(4) Omitting names and dates from the acknowledgments, oaths and affirmations, etc.

Q. Can I notarize documents that I will be signing as an officer on behalf of a corporation?
A. No. A notary public can never notarize his or her own signature, whether signing for themselves or for a corporation.

Q. What is the most serious error made by notaries in notarizing documents?
A. The most serious error made by notaries is failure to require the person to appear before the notary before notarizing the document. The person who signed the document must always appear in person. Failure to observe this requirement can result in criminal and civil liability and the loss of the notary's commission. Indiana Code 33-42-13-3.

Q. What are the liabilities and penalties for notary public misconduct?
A. A notary public who fails to carry out notary duties correctly may be subject to civil liability for any damages caused by the failure or error. If the notary's error enables a forgery, false writing or other crime to occur, the notary also may be held criminally liable as an accessory to the crime. The Secretary of State also may revoke the notary's commission. Indiana Code 33-42-13-1.

Q. What if my boss insists that I notarize a document when the person has not signed or acknowledged his or her signature in my presence?
A. Explain to your boss that Indiana law requires the person appear before a notary public personally before the notary can notarize the document. Failure to follow this procedure could result in civil and criminal liability for both the notary public and the boss. Also, the document may be invalidated by a court if it is improperly notarized. Indiana Code 33-42-13-1.

Q. If my notary appointment expires but I have applied for a new appointment, may I continue to exercise my notarial powers?
A. No. There is no carryover or grace period for a notary public once his or her appointment has expired. A person whose notary public appointment has expired may not perform any notarial acts until he or she has received a new commission certificate.

Q. As an Indiana notary, can I take a person's acknowledgment in another state, then return to Indiana and complete the notarial certificate here?
A. No. A notary's authority extends no further than the geographic boundaries of Indiana. A notary cannot perform one part of a notarial act outside the state and the other part inside the state. Both parts must be executed at the same time and the same place inside Indiana. If the resident of another state cannot come to Indiana, he or she should find a notary public in his or her state. Indiana Code 33-42-12-1(i).

Q. A person whose identification indicates a first name of "Robert" has asked me to take his acknowledgment on a document he has signed as "Bob". Should I insist that he sign as "Robert"?
A. Yes. The notary should insist that a person's signature agree exactly with the name printed on the person's identification, such as a driver's license, and the name used on the document.

Q. May a notary give legal advice or draft legal documents?
A. No. Unless the notary also is an attorney, the notary cannot act as a legal advisor and cannot prepare legal documents. For example, if a document does not contain a notarial certificate, the notary public cannot advise as to the proper type of notarization. An attorney should be consulted as to the proper notarization that is required for the document (acknowledgment, witnessing or verification).

Q: May a notary public perform a marriage ceremony?
A: No. Indiana notaries are not authorized to perform a marriage ceremony.

Q. Is the notarial act required by law?
A. A notarial act is required for many documents. The Indiana law governing the document will state whether the document must be notarized. The determination whether a document is required to be notarized cannot be made by the notary public or the Secretary of State's office.

Q. How does a notary identify a signer?
A. A notary identifies a signer by carefully examining the identification presented by that person and comparing the signatures the person has made on the document with the signature on the identification. Proper "ID" should include a photograph and signature on a reliable identification card such as a driver's license. It also is considered sufficient identification if, under oath, a credible witness personally known by the notary identifies the person.

Q. Must a notary determine the competence of the person signing the document?

A. Although there are differing opinions on whether a notary public has a duty to determine the person's competency, many experts recommend that the notary make a limited inquiry into the person's ability to understand the contents of the document that the person is signing. The notary can make a quick assessment by asking the person if he or she understands the document. Clearly, a notary should refuse to notarize the signature of a person who unquestionably has no ability to understand the document (i.e. unconscious, incapacitated or mentally disabled).

Q. Can I only notarize documents in my own county?
A. An Indiana notary public has authority throughout Indiana. The county in which the notarial act took place should be inserted in the appropriate blank above the notary's signature. The jurisdiction of a notary public qualified in Indiana is co-extensive with the limits of the state. Indiana Code 33-42-12-1(i).

Q. Must the person sign the document in my presence?
A. If the document is an affidavit, verification or other document requiring an oath, the person must be properly sworn-in and sign the document in the notary's presence. If the document requires acknowledgment, it is sufficient for the person to appear before the notary and acknowledge execution of the document. If the document requires witnessing, the notary must personally see the person sign the document. Never notarize an unsigned document; and never notarize a document outside the presence of the person. Do not notarize a document in which the notarial certificate contains untrue statements. The notary cannot take a notarization over the telephone (because the person has not appeared in person before the notary). The notary cannot notarize a document just because someone else assures the notary that the signature is genuine. The notary cannot take an acknowledgment just because the notary recognizes the person's signature. Indiana Code 33-42-13-3.

Q. What should I do when I have a question about performing a notarial act?
A. Contact either the Secretary of State's office for assistance or an attorney for legal advice.

Q. How much are the filing fees?
A. The filing fee for notary application is $75. The fee for other transactions requiring a filing fee is $5 plus online fees. Continuing education courses are $50 every two years. A remote notary authorization application is $100.

- Other transactions with a filing fee are:
    - Obtaining a copy of the commission certificate without an ID number

Q. Where does a person report illegal, improper or questionable acts by a notary public?
A. Persons who suspect any wrongdoing or mistake by a notary public should report it to the Indiana Secretary of State's office at:
https://inbiz.in.gov/Assets/NOTARY%20COMPLAINT%20FORM.pdf.

Appendix I

Indiana Notary Statutes

IC 33-42-9 Notarial Acts

IC 33-42-10 Official Seals and Stamping Devices

IC 33-42-12 Commission Requirements and Qualifications

IC 33-42-13 Notary Discipline

IC 33-42-14 Notary Fees

IC 33-42-17 Remote Notarial Act

Appendix II

Indiana Standards for Determining Residency IC 3-5-5

IC 3-5-5-0.5
"Immediate family"
For purposes of this chapter, an individual's "immediate family" includes the spouse, children, stepchildren, parents, or grandparents of the individual.
As added by P.L.258-2013, SEC.6.

IC 3-5-5-1
Purpose of chapter
This chapter shall be used to determine the residency of the following:
(1) A voter or a person applying to become a voter.
(2) A candidate.
(3) A person holding an elected office.
As added by P.L.12-1995, SEC.10.

IC 3-5-5-2
Methods of establishing residency
A person's residence may be established by:
(1) origin or birth;
(2) intent and conduct taken to implement the intent; or
(3) operation of law.
As added by P.L.12-1995, SEC.10.

IC 3-5-5-3
Residence in more than one precinct; no residence both within and outside Indiana
(a) A person does not have residence in more than one (1) precinct within Indiana.
(b) For purposes of this chapter, a person does not have residence both within Indiana and outside Indiana.
As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013,SEC.7.

IC 3-5-5-4
Abandonment of residence
A person who has a residence in a precinct retains residency in that precinct until the person abandons the residence by:
(1) having the intent to abandon the residence;
(2) having the intent to establish a new residence; and
(3) acting as provided in this intent by establishing a residence in a new precinct.
As added by P.L.12-1995, SEC.10.

IC 3-5-5-5
Absence due to state or federal business

As provided in Article 2, Section 4 of the Constitution of the State of Indiana, a person does not lose residence in a precinct in Indiana by reason of the person's absence on the business of:

(1) the state of Indiana; or

(2) the United States.

As added by P.L.12-1995, SEC.10. Amended by P.L.3-1995, SEC.10;P.L.258-2013, SEC.8.

IC 3-5-5-6

Presumption of residence specified by individual under penalties for perjury; rebuttable presumptions

(a) Sections 7 through 17 of this chapter establish presumptions regarding the residency of a person in a precinct. A person can rebut these presumptions by demonstrating intent to reside in another precinct and conduct taken to implement that intent.

(b) An individual who makes a statement regarding the residence of the individual, under the penalties for perjury, is presumed to reside at the location specified by the individual, as of the date of making the statement.

As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013,SEC.9.

IC 3-5-5-7

Temporary residency; residency of students attending postsecondary educational institution

(a) Subject to section 6 of this chapter, a person does not gain residency in a precinct in which the person is physically present for:

(1) temporary employment;

(2) educational purposes, except as provided in subsection (b);

(3) preparing to purchase or occupy a residence; or

(4) other purposes; without the intent of making a permanent home in the precinct.

(b) The following apply to a student attending a postsecondary educational institution in Indiana:

(1) A student who applies to register to vote shall state the student's residence address.

(2) A student has only one (1) residence for purposes of this title.

(3) A student may state the student's residence as either of the following, but not both:

(A) The address where the student lives when the student attends the postsecondary educational institution where the student pursues the student's education.

(B) The address where the student lives when the student is not attending the postsecondary educational institution where the student pursues the student's education.

As added by P.L.12-1995, SEC.10. Amended by P.L.3-1997, SEC.18;P.L.164-2006, SEC.5; P.L.258-2013, SEC.10; P.L.169-2015, SEC.6.

IC 3-5-5-8

Physical presence outside Indiana with intent to make new residence outside Indiana

Subject to section 6 of this chapter, if a person is physically present within another state with the intention of making that state the person's residence, the person loses residency in Indiana.

As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013,SEC.11.

IC 3-5-5-9
Physical presence outside Indiana with intent to remain indefinitely outside Indiana
Sec. 9. Subject to section 6 of this chapter, if a person is physically present within another state with the intention of remaining in the other state for an indefinite time as a place of residence, the person
loses residency in Indiana, even if the person intends to return at some time.
As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013.

IC 3-5-5-10
Physical presence in another Indiana precinct
Subject to section 6 of this chapter, if a person is physically present within another precinct in Indiana with the intention of making that precinct the person's residence, the person loses residency in the precinct that the person left.
As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013,SEC.13.

IC 3-5-5-11
Location of immediate family as residence
The place where a person's immediate family resides is the person's residence, unless the family's residence is:
(1) a temporary location for the person's immediate family; or
(2) for transient purposes.
As added by P.L.12-1995, SEC.10.

IC 3-5-5-12
Living away from family while conducting business
Except as provided in section 13 of this chapter, if:
(1) a person's immediate family resides in one (1) place; and
(2) the person does business in another place; the residence of the immediate family is the person's residence.
As added by P.L.12-1995, SEC.10.

IC 3-5-5-13
Living away from family with intent to remain away; conduct to carry out intent
Subject to section 6 of this chapter, if a person:
(1) is living at a place other than the residence of the person's immediate family; and
2) has the intention of remaining at that place and engages in conduct to carry out that intent;
the place where the person lives is the person's residence.
As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013, SEC.14.

IC 3-5-5-14
Establishment of voting residence separate from spouse; intent; conduct to carry out intent

Subject to section 6 of this chapter, a married person who does not live in a household with the person's spouse may establish a separate residence from the residence of the person's spouse by intending to do so and engaging in conduct to carry out that intent.
As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013, SEC.15.

IC 3-5-5-15
Unmarried person; place where person usually sleeps; intent; conduct to carry out intent
Subject to section 6 of this chapter, the residence of a person who:
(1) is unmarried; and
(2) does not have an immediate family; is where the person usually sleeps if that is the intent of
the person, and the person engages in conduct to carry out that intent.
As added by P.L.12-1995, SEC.10. Amended by P.L.258-2013, SEC.16.

IC 3-5-5-16
Residents of veterans home
A person who resides in a veterans home is a resident of the precinct in which the home is located.
As added by P.L.12-1995, SEC.10.

IC 3-5-5-17
Persons committed to mental health institutions
A person who is:
(1) adjudged mentally ill; and
(2) committed to an institution for individuals with a mental illness; does not gain residency in the
precinct in which the institution is located.
As added by P.L.12-1995, SEC.10. Amended by P.L.99-2007, SEC.4.

IC 3-5-5-18
Nontraditional residence
Notwithstanding IC 3-5-2-42.5, an individual with a nontraditional residence whose residence is within a precinct, but is not fixed or permanent, resides in that precinct.
As added by P.L.12-1995, SEC.10.

Appendix III

Title Insurance Producer License for Notaries Conducting Real Estate Closings (Real Estate Sales, Financing and Refinancing)

Most real estate transactions or "closings" in Indiana involve a real estate title insurance company. Between the time an agreement to purchase real estate is made and the closing of the transaction, a buyer (and in most cases a mortgage lender) will engage the services of a title company to examine the seller's title to the real estate, make sure the property survey and legal description are correct, and issue a title insurance policy – guaranteeing the buyer's title to the property. Because of their role as insurers of title, title companies typically "package" real estate closing documents and employ attorneys or notaries public to "conduct" the closing. An Indiana Notary may not conduct a real estate closing i.e.: sale or refinancing of real estate including a mortgage, title examination and title insurance unless they have obtained a Limited Insurance Producer License (also known as a Title Insurance License or Title Agent License) from the Indiana Department of Insurance. IC 27-1-15.6-18(4) provides for limited insurance producer license for persons (i.e. notaries) who solicit or negotiate only title insurance products.

Any person who conducts a real estate closing on behalf of a title insurance producer or title insurance company in which a title insurance policy is issued or is to be issued must be a licensed Title insurance producer.

Indiana Department of Insurance: http://www.in.gov/idoi/2446.htm

Appendix IV - Notarial Certificate Examples

Acknowledgment in an Individual Capacity

Acknowledgments allow the signer of the document to verify that the signature on the document is their signature. An acknowledgment requires that the signer personally appear before the notary and sign the document. The signer must be properly identified and has to declare that he/she understands the document and is signing of their own free will.

There are many forms of acknowledgments but they all basically say the same thing: "I signed this document of my own free will." The notary public is a witness to this statement and shows that:

1. The signer personally **appeared** before the notary;
2. The signer was positively **identified** by the notary; and
3. The signer freely and willingly **acknowledged** his or her signature.

An acknowledgment does not have to be signed before a notary unless it specifically says "subscribed/signed before me". If the certificate says that a notary must witness its signing, then the document can be re-signed before the notary, even if it was signed previously by the signer. It is also permissible to notarize a document that was signed several years ago, as long as the document has an original signature. Documents cannot be signed **AFTER** notarization.

An **acknowledgment in individual capacity** means that one individual, the signer, has signed a record for the purpose stated in the document. The individual must personally appear before the notary, acknowledge that he or she signed out of his or her own free will and the notary must positively ID the individual as the signer. The signature may be made **before or during** the notarization, but **not after.**

SAMPLE CERTIFICATE FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY

State of Indiana
County of: ___Boone___

This record was acknowledged before me on ___June 3, 2020___
by ___Susie Signer___ .

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

___Nancy N. Notary___
Notary Public Signature
Commissioned in
___Howard___ county.

Acknowledgment in a Representative Capacity

Corporations and other business entities are viewed as legal or corporate persons with the same rights as "natural" individuals, but they cannot sign on their own. They need a representative such as a director, trustee, partner, attorney-in-fact or officer to sign for them. This means that the signer is signing on behalf of a business. A notary may not notarize a document for a company if the notary is a shareholder, director, officer, employee, member or partner.

The notary public should only notarize the document if the following criteria are met:

- Personal knowledge. If the notary is a long-time acquaintance with the signer and would be willing to swear in court that the signer is an officer of the company, then he or she can notarize the document.
- Documentary evidence could be provided such as partnership agreements, corporate annual reports, trust agreements or verification from the Business Services Division. Business cards and stationary are NOT sufficient evidence.
- Oath of a third party who the notary personally knows and who is impartial to the transaction. This should be the notary public's last resort.

SAMPLE CERTIFICATE FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY

State of Indiana
County of: ___Boone___

This record was acknowledged before me on ___June 3, 2020___
by ___Susie Signer___ as ___President___ of ___Company___.

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
___Howard___ county.

Verification Upon Oath or Affirmation Certificate

This type of notarization is meant to verify the truthfulness in the signer. It is a declaration made by an individual on oath or affirmation that a statement is true. A notary **must** have the signer appear personally, verbally swear the oath or affirm to the truth and sign before the notary. An oath is a pledge to a Supreme Being; an affirmation is a solemn personal pledge of honor that something is true. The penalty for swearing these pledges is perjury.

You are showing that the signer

- Personally **appeared** before you;
- Was positively **identified** by you;
- Took an **oath/affirmation** before you; and
- Freely and willingly **signed** before you.

An oath cannot

- be done on behalf of someone else, including a corporation; or
- be given over the telephone or by video conference.

Sample oath/affirmation

- "Do you solemnly swear (or affirm) that the statements in this document are true (so help you God)?"

- "Do you solemnly swear (or affirm) that the information you are about to give (or have given) is the truth, the whole truth, and nothing but the truth (so help you God)?"

The signer/oath taker can either repeat these back to you (using "I" instead of "you") or can simply say "I do" or "I will." Draw a line through "sworn" or "(or affirmed)" if you do not use it.

SAMPLE CERTIFICATE FOR VERIFICATION UPON OATH OR AFFIRMATION

State of Indiana
County of: ___**Boone**___

Signed and sworn to (or affirmed) before me on __**June 3, 2020**__
by __**Susie Signer**__ .

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
__**Howard**__ county.

Witnessing or Attesting a Signature Certificate

Witnessing or attesting a signature is just like an acknowledgment except that the signer must sign before the notary. If the document has already been signed, then the signer must re-sign the document in front of the notary.

The notary shows that the signer

- Personally **appeared** before the notary;
- Was positively **identified** by the notary; and
- Freely and willingly **signed** before the notary.

Draw a line through "signed" or "attested" if you do not use it.

SAMPLE CERTIFICATE FOR WITNESSING OR ATTESTING A SIGNATURE

State of Indiana
County of: **Boone**

Signed (or attested) before me on **June 3, 2020**
by **Susie Signer** .

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
Howard county.

Copy Certification Certificate

A notary public is allowed to certify or attest to a copy of a document. The signer of the document does not state anything about the document; only the notary does. You must carefully make the copy or oversee its making in order to make sure that the copy is true and accurate. The transcription and reproduction must be full, true and accurate. It is best to photocopy the document. A true copy does NOT have to be made from an original copy unless specified. **Personal appearance** is required from the person requesting the certified copy.

A photograph cannot be notarized. A statement about the photograph may be notarized though.

SAMPLE CERTIFICATE FOR A COPY CERTIFICATION

State of Indiana
County of: **Boone**

I certify that this is a true and correct copy of a record in the possession of **Susie Signer**.
Date: **June 3, 2020**.

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
Howard county.

Attorney-In-Fact Acknowledgment Certificate

This is an acknowledgment in a representative capacity. The attorney-in-fact represents the person named in the document and signs on his or her behalf. A power of attorney document is the authorization the attorney-in-fact gets so that he or she can sign documents on the signer's behalf. You must see proof of the signer's authority to sign for another. That proof is called the power of attorney.

A general acknowledgment notarial certificate is generally used for power of attorney and needs to be seen before notarizing an attorney-in-fact acknowledgment certificate.

You are not required to judge whether power of attorney is valid for that particular transaction. However, if the document is expired or it clearly says not to use it for the type of document being notarized, then you have the right to refuse notarization.

SAMPLE CERTIFICATE FOR AN ATTORNEY-IN-FACT ACKNOWLEDGMENT

State of Indiana
County of: **Boone**

On June 3, 2020, before me personally appeared Susie Signer, (proved to me on the basis of satisfactory evidence) (to be the person whose name is subscribed to within the record (type of document: Power of Attorney) as the attorney in fact of John Signer Sr., and acknowledged that (he)(she) subscribed the name of John Signer Sr. thereto as principal, as (his)(her) own name as attorney in fact.

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Notary Public Signature
Commissioned in
Howard county.

SAMPLE CERTIFICATE FOR A REMOTE NOTARIZATION

State of Indiana
County of Howard
City of Kokomo

I certify that the attached or associated electronic record entitled Example Document and dated June 1, 2020 was signed by the principal Susie Signer who was located in this city Lebanon county Bonne, state or province Indiana, and country United States and notarized by me, the remote notary public, on this date June 3, 2020 in this city and county Kokomo, Indiana.

Official Seal
Nancy N Notary
Notary Public – State of Indiana
Commission Number NP0XXXXXX
My Commission Expires March 30, 2022

Nancy N. Notary
Remote Notary Public
Commissioned in Howard County
Nancy N. Notary
Date notary public commission expires
March 30, 2022

Appendix V - Glossary of Notarial Terms

Acknowledge: To admit the existence of truth of a statement and accept responsibility.

Acknowledgment: A formal declaration before a notary public that the instrument presented is the free and voluntary act of the party executing it and the signatures on the document are genuine.

Administer: To give or apply in a formal way.

Affidavit: A signed statement made under oath or affirmation.

Affirmation: An oral or written declaration made by a person who has an objection to taking oaths, certifying that under penalty of perjury the declarations are true.

Affix: To secure (an object) to another; to attach; add to.

Apostille: A type of authentication of an official document or the official status of a notary or government official who has authenticated or certified a document. In the United States an apostille is typically prepared by Secretaries of State. Typically when an official record or document is going to be presented to a foreign court or authority, a government office in the issuing country (i.e. a Secretary of State) upon request, will prepare and attach an apostille to the document as an additional form of authentication.

Appointment: The act of designations for an office or position.

Authenticate: To prove or verify as genuine.

Certificate: 1) A document testifying to fact, qualification, or promise; or 2) A written statement legally authenticated.

Civil Liability: The responsibility and obligation to make compensation to another person for damages caused by improper performance of duties and acts.

Commission: A document describing the notary's appointment and term of office.

Credible Witness: A believable witness worthy of confidence. It creates a chain of personally known individuals from the notary public to the signer of a document.

Instrument: A legal document that establishes or transfers property rights, such as a real estate deed, last will and testament, trust or bill of sale. Instruments, such as real estate deeds, are typically recorded and available for public inspection and reliance.

Jurat: Latin for "it has been sworn". A certificate (typically completed by a notary) added to an affidavit or document stating when, before whom and where it was made.

Jurisdiction/Venue: The locality where a cause of action occurs, the state and/or county where a notarization takes place.

Misconduct: Behavior not conforming to prevailing standards of law.

Misdemeanor: An offense of lesser gravity than a felony for which punishment may be a fine or imprisonment.

Oath: Oral or written appeals before God that the declarations made are true.

Official Seal: Rubber stamp or embosser that conforms to the laws and rules.

Personally Known: Familiarity with an individual resulting from interactions with that individual over a period of time sufficient to verify that the individual has the identity claimed.

Power of Attorney: A legal instrument authorizing one to act as another's agent or attorney.

Revoke: To cancel or rescind.

Swear/Sworn: To make a solemn promise; to vow, usually before God.

Verification: A confirmation of the truth of a theory or fact.

Witness: A person who watches an event take place.

Appendix VI - Notary Guide Version History

Edited by:	Date Published
Secretary of State	04/30/2020
Secretary of State	8/25/2020