

CALIFORNIA CODE

**BUSINESS AND PROFESSIONS CODE
DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY
CHAPTER 4. ATTORNEYS
ARTICLE 7. UNLAWFUL PRACTICE OF LAW**

§ 6125. Practice without active membership

No person shall practice law in California unless the person is an active member of the State Bar.

Added Stats 1939 ch 34 § 1. Amended Stats 1990 ch 1639 § 8 (AB 3991).

§ 6126.7. Translation of specified phrases; Violation; Remedies

(a) It is a violation of subdivision (a) of Section 6126 for any person who is not an attorney to literally translate from English into another language, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material, any words or titles, including, but not limited to, “notary public,” “notary,” “licensed,” “attorney,” or “lawyer,” that imply that the person is an attorney. As provided in this subdivision, the literal translation of the phrase “notary public” into Spanish as “notario publico” or “notario,” is expressly prohibited.

(b) For purposes of this section, “literal translation of” or “to literally translate” a word, title, or phrase from one language means the translation of a word, title, or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(c)(1) In addition to any other remedies and penalties prescribed in this article, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by the State Bar.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(A) The nature and severity of the misconduct.

(B) The number of violations.

(C) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(D) The wilfulness of the misconduct.

(E) The defendant’s assets, liabilities, and net worth.

(3) The court shall grant a prevailing plaintiff reasonable attorneys’ fees and costs.

(4) A civil action brought under this section shall be commenced within four years after the cause of action accrues.

(5) In a civil action brought by the State Bar under this section, the civil penalty collected shall be paid to the State Bar and allocated to the fund established pursuant to Section 6033 to provide free legal services related to immigration reform act services to clients of limited means or to a fund for the purposes of mitigating unpaid claims of injured immigrant clients under Section 22447, as directed by the Board of Trustees of the State Bar. The board shall annually report any collection and expenditure of funds for the preceding calendar year, as authorized by this section, to the Assembly and Senate

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Committees on Judiciary. The report required by this section may be included in the report described in Section 6086.15.

Added Stats 2013 ch 574 § 1 (AB 1159), effective October 5, 2013.

DIVISION 8. SPECIAL BUSINESS REGULATIONS

CHAPTER 19.5. IMMIGRATION CONSULTANTS

§ 22442.3. Translation of specified phrases; Violation; Remedies

(a) An immigration consultant shall not, with the intent to mislead, literally translate, from English into another language, any words or titles, including, but not limited to, “notary public,” “notary,” “licensed,” “attorney,” or “lawyer,” that imply that the person is an attorney, in any document, including an advertisement, stationery, letterhead, business card, or other comparable written material describing the immigration consultant. As provided in this subdivision, the literal translation of the phrase “notary public” into Spanish as “notario publico” or “notario,” is expressly prohibited.

(b) For purposes of this section, “literal translation of” or “to literally translate” a word, title or phrase from one language means the translation of a word, title, or phrase without regard to the true meaning of the word or phrase in the language that is being translated.

(c) An immigration consultant may not make or authorize the making of any verbal or written references to his or her compliance with the bonding requirements of Section 22443.1 except as provided in this chapter.

(d) A violation of subdivision (a) or (c) by an immigration consultant shall constitute a violation of subdivision (a) of Section 6126.

(e)(1) In addition to the remedies and penalties prescribed in this chapter, a person who violates this section shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) per day for each violation, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought in the name of the people of the State of California by the Attorney General, a district attorney, or a city attorney.

(2) In assessing the amount of the civil penalty, the court may consider relevant circumstances presented by the parties to the case, including, but not limited to, the following:

(A) The nature and severity of the misconduct.

(B) The number of violations.

(C) The length of time over which the misconduct occurred, and the persistence of the misconduct.

(D) The willfulness of the misconduct.

(E) The defendant’s assets, liabilities, and net worth.

(3) If the Attorney General brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If a district attorney brings the action, the civil penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If a city attorney brings the action, one-half of the civil penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(4) The court shall grant a prevailing plaintiff reasonable attorneys’ fees and costs.

Added Stats 1994 ch 561 § 2 (AB 2520). Amended Stats 2013 ch 574 § 4 (AB 1159), effective October 5, 2013.

§ 22449. Who may charge clients for services under Deferred Action for Childhood Arrivals program; Price gouging

(a) Immigration consultants, attorneys, notaries public, and organizations accredited by the United States Board of Immigration Appeals shall be the only individuals authorized to charge clients or prospective clients fees for providing consultations, legal advice, or notary public services, respectively, associated with filing an application under the federal Deferred Action for Childhood Arrivals program announced by the United States Secretary of Homeland Security on June 15, 2012.

(b) (1) Immigration consultants, attorneys, notaries public, and organizations accredited by the United States Board of Immigration Appeals shall be prohibited from participating in practices that amount to price gouging when a client or prospective client solicits services associated with filing an application for deferred action for childhood arrivals as described in subdivision (a).

(2) For the purposes of this section, “price gouging” means any practice that has the effect of pressuring the client or prospective client to purchase services immediately because purchasing them at a later time will result in the client or prospective client paying a higher price for the same services.

(c) (1) In addition to the civil and criminal penalties described in Section 22445, a violation of this section by an attorney shall be cause for discipline by the State Bar pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

(2) In addition to the civil and criminal penalties described in Section 22445, a violation of this section by a notary public shall be cause for the revocation or suspension of his or her commission as a notary public by the Secretary of State and the application of any other applicable penalties pursuant to Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code.

Added Stats 2013 ch 571 § 1 (AB 35), effective January 1, 2014.

**CIVIL CODE
PRELIMINARY PROVISIONS**

§ 14. Words and phrases; construction; tense; gender; number

Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation as well as a natural person; county includes city and county; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or affirmation, is embraced by the term “testify,” and every written one in the term “depose”; signature or subscription includes mark, when the person cannot write, his name being written near it, by a person who writes his own name as a witness; provided, that when a signature is by mark it must in order that the same may be acknowledged or may serve as the signature to any sworn statement be witnessed by two persons who must subscribe their own names as witnesses thereto. ***

Enacted 1872. Amended Code Amendments 1873-74 ch 612 § 1; Stats 1903 ch 281 § 1.

DIVISION 2. PROPERTY
PART 4. ACQUISITION OF PROPERTY
TITLE 4. TRANSFER
CHAPTER 4. RECORDING TRANSFERS
ARTICLE 3. PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS

§ 1181. Notaries public; city or county officers

The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected or appointed, before either:

- (a) A clerk of a superior court.
- (b) A county clerk.
- (c) A court commissioner.
- (d) A retired judge of a municipal or justice court.
- (e) A district attorney.
- (f) A clerk of a board of supervisors.
- (g) A city clerk.
- (h) A county counsel.
- (i) A city attorney.
- (j) Secretary of the Senate.
- (k) Chief Clerk of the Assembly.

Enacted Stats 1872. Amended Code Amdts 1880 ch 39 § 2; Stats 1891 ch 150 § 1; Stats 1905 ch 445 § 1; Stats 1911 ch 247 § 1; Stats 1941 ch 1096 § 1; Stats 1945 ch 240 § 2; Stats 1951 ch 1676 § 3, operative January 1, 1952; Stats 1953 ch 457 § 2; Stats 1959 ch 1162 § 1; Stats 1961 ch 49 § 1; Stats 1963 ch 200 § 1; Stats 1968 ch 576 § 1; Stats 1971 ch 27 § 1; Stats 1981 ch 390 § 1; Stats 1986 ch 1417 § 2; Stats 1992 ch 876 § 3 (AB 3296); Stats 1998 ch 931 § 13 (SB 2139), effective September 28, 1998; Stats 1999 ch 20 § 2 (SB 301); Stats 2002 ch 784 § 12 (SB 1316).

§ 1182. Officers outside State

The proof or acknowledgment of an instrument may be made without this state, but within the United States, and within the jurisdiction of the officer, before any of the following:

- (1) A justice, judge, or clerk of any court of record of the United States.
- (2) A justice, judge, or clerk of any court of record of any state.
- (3) A commissioner appointed by the Governor or Secretary of State for that purpose.
- (4) A notary public.
- (5) Any other officer of the state where the acknowledgment is made authorized by its laws to take such proof or acknowledgment.

Enacted Stats 1872. Amended Stats 1971 ch 1611 § 1.

§ 1183. Officers outside United States

The proof or acknowledgment of an instrument may be made without the United States, before any of the following:

- (a) A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.
- (b) A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made.
- (c) A judge of a court of record of the country where the proof or acknowledgment is

made.

(d) Commissioners appointed by the Governor or Secretary of State for that purpose.

(e) A notary public.

If the proof or acknowledgment is made before a notary public, the signature of the notary public shall be proved or acknowledged (1) before a judge of a court of record of the country where the proof or acknowledgment is made, or (2) by any American diplomatic officer, consul general, consul, vice consul, or consular agent, or (3) by an apostille (certification) affixed to the instrument pursuant to the terms of The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. Enacted Stats 1872. Amended Code Amdts 1873-74 ch 612 § 139; Stats 1939 ch 249 § 1; Stats 1943 ch 28 § 1, effective February 9, 1943; Stats 1963 ch 144 § 1; Stats 1971 ch 1611 § 2; Stats 1982 ch 520 § 13; Stats 1984 ch 1017 § 1.

§ 1183.5. Notarial acts

Armed forces. Any officer on active duty or performing inactive-duty training in the armed forces having the general powers of a notary public pursuant to Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632 and 101-510) and any successor statutes may perform all notarial acts for any person serving in the armed forces of the United States, wherever he or she may be, or for any spouse of a person serving in the armed forces, wherever he or she may be, or for any person eligible for legal assistance under laws and regulations of the United States, wherever he or she may be, for any person serving with, employed by, or accompanying such armed forces outside the United States and outside the Canal Zone, Puerto Rico, Guam and the Virgin Islands, and any person subject to the Uniform Code of Military Justice outside of the United States.

Statement of execution; seal or authentication of certificate. Any instrument acknowledged by any such officer or any oath or affirmation made before such officer shall not be rendered invalid by the failure to state therein the place of execution or acknowledgment. No seal or authentication of the officer's certificate of acknowledgment or of any jurat signed by him or her shall be required but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in a form authorized by the laws of this state or in the following form:

On this the ___ day of ___, 19__, before me _____, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be (a) serving in the armed forces of the United States, (b) a spouse of a person serving in the armed forces of the United States, or (c) a person serving with, employed by, or accompanying the armed forces of the United States outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands, and to be the person whose name is subscribed to the within instrument and acknowledged that he or she executed the same. And the undersigned does further certify that he or she is at the date of this certificate a commissioned officer of the armed forces of the United States having the general powers of a notary public under the provisions of Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632 and 101-510).

Signature of officer, rank, branch of service and capacity in which signed.

Jurat; form. To any affidavit subscribed and sworn to before such officer there shall

be attached a jurat substantially in the following form:

Subscribed and sworn to before me on this ____ day of _____, 19__.

Signature of officer, rank, branch of service and capacity in which signed.

Recitals and evidence. The recitals contained in any such certificate or jurat shall be prima facie evidence of the truth thereof, and any certificate of acknowledgment, oath or affirmation purporting to have been made by any commissioned officer of the Army, Air Force, Navy, Marine Corps or Coast Guard shall, notwithstanding the omission of any specific recitals therein, constitute presumptive evidence of the existence of the facts necessary to authorize such acknowledgment, oath or affirmation to be taken by the certifying officer pursuant to this section.

Added Stats 1943 ch 28 § 2, effective February 1, 1943. Amended Stats 1943 ch 365 § 1; effective May 12, 1943; Stats 1945 ch 106 § 1; Stats 1947 ch 10 § 1, effective February 4, 1947; Stats 1949 ch 1186 § 2; Stats 1951 ch 386 § 1; Stats 1953 ch 603 § 1; Stats 1957 ch 898 § 1; Stats 1974 ch 91 § 1; Stats 1992 ch 77 § 1 (SB 208); Stats 1994 ch 587 § 1 (AB 3600).

§ 1184. Deputies of officers

When any of the officers mentioned in Sections 1180, 1181, 1182, and 1183 are authorized by a law to appoint a deputy, the acknowledgment or proof may be taken by such deputy, in the name of his principal.

Enacted Stats 1872. Amended Stats 1953 ch 457 § 3.

§ 1185. Acknowledgments; requisites

(a) The acknowledgment of an instrument shall not be taken unless the officer taking it has satisfactory evidence that the person making the acknowledgment is, the individual who is described in and who executed the instrument.

(b) For purposes of this section, “satisfactory evidence” means the absence of information, evidence, or other circumstances that would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be and any one of the following:

(1) (A) The oath or affirmation of a credible witness personally known to the officer, whose identity is proven to the officer upon presentation of a document satisfying the requirements of paragraph (3) or (4), that the person making the acknowledgment is personally known to the witness and that each of the following are true:

(i) The person making the acknowledgment is the person named in the document.

(ii) The person making the acknowledgment is personally known to the witness.

(iii) That it is the reasonable belief of the witness that the circumstances of the person making the acknowledgment are such that it would be very difficult or impossible for that person to obtain another form of identification.

(iv) The person making the acknowledgment does not possess any of the identification documents named in paragraphs (3) and (4).

(v) The witness does not have a financial interest in the document being acknowledged and is not named in the document.

(B) A notary public who violates this section by failing to obtain the satisfactory evidence required by subparagraph (A) shall be subject to a civil penalty not exceeding ten thousand dollars (\$10,000). An action to impose this civil penalty may be brought by

the Secretary of State in an administrative proceeding or a public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this subparagraph.

(2) The oath or affirmation under penalty of perjury of two credible witnesses, whose identities are proven to the officer upon the presentation of a document satisfying the requirements of paragraph (3) or (4), that each statement in paragraph (1) is true.

(3) Reasonable reliance on the presentation to the officer of any one of the following, if the document or other form of identification is current or has been issued within five years:

(A) An identification card or driver's license issued by the Department of Motor Vehicles.

(B) A passport issued by the Department of State of the United States.

(C) An inmate identification card issued by the Department of Corrections and Rehabilitation, if the inmate is in custody in prison.

(D) Any form of inmate identification issued by a sheriff's department, if the inmate is in custody in a local detention facility.

(4) Reasonable reliance on the presentation of any one of the following, provided that a document specified in subparagraphs (A) to (F), inclusive, shall either be current or have been issued within five years and shall contain a photograph and description of the person named on it, shall be signed by the person, and shall bear a serial or other identifying number:

(A) A valid consular identification document issued by a consulate from the applicant's country of citizenship, or a valid passport from the applicant's country of citizenship.

(B) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue driver's licenses.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the Armed Forces of the United States.

(E) An employee identification card issued by an agency or office of the State of California, or by an agency or office of a city, county, or city and county in this state.

(F) An identification card issued by a federally recognized tribal government.

(c) An officer who has taken an acknowledgment pursuant to this section shall be presumed to have operated in accordance with the provisions of law.

(d) A party who files an action for damages based on the failure of the officer to establish the proper identity of the person making the acknowledgment shall have the burden of proof in establishing the negligence or misconduct of the officer.

(e) A person convicted of perjury under this section shall forfeit any financial interest in the document.

Enacted Stats 1872. Amended Stats 1905 ch 445 § 2; Stats 1982 ch 197 § 1, effective May 12, 1982; Stats 1987 ch 307 § 1; Stats 1988 ch 842 § 1; Stats 1993 ch 1044 § 1 (AB 1090); Stats 2007 ch 399 § 1 (AB 886), effective January 1, 2008; Stats 2008 ch 67 § 1 (AB 2452) (ch 67 prevails), ch 179 § 29 (SB 1498), effective January 1, 2009; Stats 2010 ch 328 § 28 (SB 1330), effective January 1, 2011; Stats 2013 ch 159 § 2 (AB 625), effective January 1, 2014; Stats 2015 ch 42 § 1 (AB 1036), effective January 1, 2016; Stats. 2016, ch. 762, Sec. 1.5, effective January 1, 2017.

§ 1186. [Section repealed 1891.]

§ 1187. [Section repealed 1976.]

§ 1188. Certificate of Acknowledgment

An officer taking the acknowledgment of an instrument shall endorse thereon or attach thereto a certificate pursuant to Section 1189.

Enacted Stats 1872. Amended Code Amdts 1873-74 ch 612 § 140; Stats 1990 ch 1070 § 1 (SB 2251); Stats 2013 ch 78 § 1 (AB 464), effective January 1, 2014.

§ 1189. Certificate of acknowledgment; form; sufficiency of out of state acknowledgment; force and effect of acknowledgment under prior laws

(a)(1) Any certificate of acknowledgment taken within this state shall include a notice at the top of the certificate of acknowledgment in an enclosed box stating: “A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.” This notice shall be legible.

(2) The physical format of the boxed notice at the top of the certificate of acknowledgment required pursuant to paragraph (3) is an example, for purposes of illustration and not limitation, of the physical format of a boxed notice fulfilling the requirements of paragraph (1).

(3) A certificate of acknowledgment taken within this state shall be in the following form:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.
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State of California)

County of _____)

On _____ before me, (here insert name and title of the officer), personally appeared _____

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

(4) A notary public who willfully states as true any material fact that he or she knows to be false shall be subject to a civil penalty not exceeding ten thousand dollars (\$10,000). An action to impose a civil penalty under this subdivision may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this section.

(b) Any certificate of acknowledgment taken in another place shall be sufficient in this state if it is taken in accordance with the laws of the place where the acknowledgment is made.

(c) On documents to be filed in another state or jurisdiction of the United States, a California notary public may complete any acknowledgment form as may be required in that other state or jurisdiction on a document, provided the form does not require the notary to determine or certify that the signer holds a particular representative capacity or to make other determinations and certifications not allowed by California law.

(d) An acknowledgment provided prior to January 1, 1993, and conforming to applicable provisions of former Sections 1189, 1190, 1190a, 1190.1, 1191, and 1192, as repealed by Chapter 335 of the Statutes of 1990, shall have the same force and effect as if those sections had not been repealed.

Added Stats 1990 ch 335 § 2 (AB 2581). Amended Stats 1990 ch 1070 § 2 (SB 2251); Stats 1991 ch 157 § 1 (AB 1750); Stats 1996 ch 97 § 1 (AB 3304); Stats 2005 ch 295 § 1 (AB 361), effective January 1, 2006; Stats 2007 ch 399 § 2 (AB 886), effective January 1, 2008; Stats 2014 ch 197 § 1 (SB 1050), effective January 1, 2015.

§ 1190. Certificate of acknowledgment as prima facie evidence; duly authorized person

The certificate of acknowledgment of an instrument executed on behalf of an incorporated or unincorporated entity by a duly authorized person in the form specified in Section 1189 shall be prima facie evidence that the instrument is the duly authorized act of the entity named in the instrument and shall be conclusive evidence thereof in favor of any good faith purchaser, lessee, or encumbrancer. “Duly authorized person,” with respect to a domestic or foreign corporation, includes the president, vice president, secretary, and assistant secretary of the corporation.

Added Stats 1990 ch 1070 § 3 (SB 2251).

§ 1190.1. [Section repealed 1990.]

§ 1190a. [Section repealed 1990.]

§ 1191. [Section repealed 1990.]

§ 1192. [Section repealed 1990.]

§ 1193. Certificate of acknowledgment; authentication

Officers taking and certifying acknowledgments or proof of instruments for record, must authenticate their certificates by affixing thereto their signatures, followed by the names of their offices; also, their seals of office, if by the laws of the State or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

Enacted Stats 1872.

§ 1194. [Section repealed 1939.]

§ 1195. Proof of execution; methods

(a) Proof of the execution of an instrument, when not acknowledged, may be made any of the following:

- (1) By the party executing it, or either of them.
- (2) By a subscribing witness.

(3) By other witnesses, in cases mentioned in Section 1198.

(b)(1) Proof of the execution of a grant deed, mortgage, deed of trust, quitclaim deed, security agreement, or any instrument affecting real property is not permitted pursuant to Section 27287 of the Government Code, though proof of the execution of a trustee's deed or deed of reconveyance is permitted.

(2) Proof of the execution for any instrument requiring a notary public to obtain a thumbprint from the party signing the document in the notary public's journal is not permitted.

(c) Any certificate for proof of execution taken within this state shall include a notice at the top of the certificate for proof of execution in an enclosed box stating: "A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document." This notice shall be legible.

(d) The physical format of the boxed notice at the top of the certificate for proof of execution required pursuant to subdivision (e) is an example, for purposes of illustration and not limitation, of the physical format of a boxed notice fulfilling the requirements of subdivision (c).

(e) A certificate for proof of execution taken within this state shall be in the following form:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____) ss.

On ____ (date), before me, _____ (name and title of officer), personally appeared ____ (name of subscribing witness), proved to me to be the person whose name is subscribed to the within instrument, as a witness thereto, on the oath of ____ (name of credible witness), a credible witness who is known to me and provide a satisfactory identifying document. ____ (name of subscribing witness), being by me duly sworn, said that he/she was present and saw/heard ____ (name(s) of principal(s)), the same person(s) described in and whose name(s) is/are subscribed to the within or attached instrument in his/her/their authorized capacity(ies) as (a) party(ies) thereto, execute or acknowledge executing the same, and that said affiant subscribed his/her name to the within instrument as a witness at the request of ____ (name(s) of principal(s)).

WITNESS my hand and official seal.

Signature _____ (Seal)

Enacted Stats 1872. Amended Stats 1997 ch 319 § 1 (SB 618); Stats 2011 ch 269 § 3 (AB 75) (ch 269 prevails), effective January 1, 2012, ch 296 § 34 (AB 1023), effective January 1, 2012; Stats 2012 ch 202 § 1 (AB 2326), effective January 1, 2013; Stats 2013 ch 76 § 11 (AB 383), effective January 1, 2014, ch 78 § 2 (AB 464), effective January 1, 2014 (ch 78 prevails); Stats 2014 ch 197 § 2 (SB 1050), effective January 1, 2015.

§ 1196. Subscribing witness; establishment of identity

A witness shall be proved to be a subscribing witness by the oath of a credible witness who provides the officer with any document satisfying the requirements of paragraph (3) or (4) of subdivision (b) of Section 1185.

Enacted Stats 1872. Amended Stats 1982 ch 197 § 7, effective May 12, 1982; Stats 2008 ch 67 § 2 (AB 2452), effective January 1, 2009.

§ 1197. Subscribing witness; items to be proved

The subscribing witness must prove that the person whose name is subscribed to the instrument as a party is the person described in it, and that such person executed it, and that the witness subscribed his name thereto as a witness.

Enacted Stats 1872.

§ 1198. Handwriting may be proved, when

The execution of an instrument may be established by proof of the handwriting of the party and of a subscribing witness, if there is one, in the following cases:

1. When the parties and all the subscribing witnesses are dead; or,
2. When the parties and all the subscribing witnesses are non-residents of the State;

or,

3. When the place of their residence is unknown to the party desiring the proof, and cannot be ascertained by the exercise of due diligence; or,

4. When the subscribing witness conceals himself, or cannot be found by the officer by the exercise of due diligence in attempting to serve the subpoena or attachment; or,

5. In case of the continued failure or refusal of the witness to testify, for the space of one hour, after his appearance.

Enacted Stats 1872.

§ 1199. Requirements for proof by handwriting

The evidence taken under the preceding section must satisfactorily prove to the officer the following facts:

One—The existence of one or more of the conditions mentioned therein; and,

Two—That the witness testifying knew the person whose name purports to be subscribed to the instrument as a party, and is well acquainted with his signature, and that it is genuine; and,

Three—That the witness testifying personally knew the person who subscribed the instrument as a witness, and is well acquainted with his signature, and that it is genuine; and,

Four—The place of residence of the witness.

Enacted Stats 1872. Amended Code Amdts 1873-74 ch 612 § 141.

§ 1200. Certificate of proof

An officer taking proof of the execution of any instrument must, in his certificate indorsed thereon or attached thereto, set forth all the matters required by law to be done or known by him, or proved before him on the proceeding, together with the names of all the witnesses examined before him, their places of residence respectively, and the substance of their testimony.

Enacted Stats 1872.

DIVISION 3. OBLIGATIONS

PART 2. CONTRACTS

TITLE 2.5. ELECTRONIC TRANSACTIONS

§ 1633.11. Electronic Notarizations

(a) If a law requires that a signature be notarized, the requirement is satisfied with respect

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to an electronic signature if an electronic record includes, in addition to the electronic signature to be notarized, the electronic signature of a notary public together with all other information required to be included in a notarization by other applicable law.

Added Stats 1999 ch 428 § 1 (SB 820).

§ 1633.12. Electronic Records

(a) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record, if the electronic record reflects accurately the information set forth in the record at the time it was first generated in its final form as an electronic record or otherwise, and the electronic record remains accessible for later reference.

(b) A requirement to retain a record in accordance with subdivision (a) does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(c) A person may satisfy subdivision (a) by using the services of another person if the requirements of subdivision (a) are satisfied.

(d) If a law requires a record to be retained in its original form, or provides consequences if the record is not retained in its original form, that law is satisfied by an electronic record retained in accordance with subdivision (a).

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subdivision (a).

(f) A record retained as an electronic record in accordance with subdivision (a) satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of this title specifically prohibits the use of an electronic record for a specified purpose.

(g) This section does not preclude a governmental agency from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

Added Stats 1999 ch 428 § 1 (SB 820).

CODE OF CIVIL PROCEDURE

PART 2. OF CIVIL ACTIONS

TITLE 2. OF THE TIME OF COMMENCING CIVIL ACTIONS

CHAPTER 3. THE TIME OF COMMENCING ACTIONS

OTHER THAN FOR THE RECOVERY OF REAL PROPERTY

§ 338. Statutory liability; Injury to real property; Taking or injuring goods or chattels; Fraud or mistake; Bonds of public officials and notaries; Slander of title; False advertising; Pollution violations; Challenge to tax levy; Personal rights violations
Within three years:

(f) (1) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action.

(2) Notwithstanding paragraph (1), an action based on malfeasance or misfeasance

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shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later.

(3) Notwithstanding paragraph (1), an action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.
Enacted 1872. Amended Stats 1921 ch 183 § 1; Stats 1933 ch 306 § 1; Stats 1935 ch 581 § 1; Stats 1943 ch 1025 § 1; Stats 1949 ch 1540 § 1; Stats 1957 ch 649 § 1; Stats 1972 ch 823 § 2; Stats 1981 ch 247 § 1, effective July 21, 1981, ch 494 § 2; Stats 1982 ch 340 § 1; Stats 1987 ch 1200 § 1, ch 1201 § 1; Stats 1988 ch 1186 § 1; Stats 1989 ch 467 § 1; Stats 1990 ch 669 § 1 (AB 4049); Stats 1995 ch 238 § 1 (AB 1174); Stats 1998 ch 342 § 1 (AB 1933); Stats 2005 ch 123 § 2 (AB 378), ch 383 § 1.5 (SB 1110); Stats 2006 ch 538 § 62 (SB 1852), effective January 1, 2007; Stats 2010 ch 691 § 2 (AB 2765), effective January 1, 2011.

PART 4. MISCELLANEOUS PROVISIONS
TITLE 2. OF THE KINDS AND DEGREES OF EVIDENCE
CHAPTER 3. WRITINGS
ARTICLE 3 PRIVATE WRITINGS

§ 1935. A subscribing witness is one who sees a writing executed or hears it acknowledged, and at the request of the party thereupon signs his name as a witness.
Enacted 1872.

TITLE 6. OF EVIDENCE IN PARTICULAR CASES,
AND MISCELLANEOUS AND GENERAL PROVISIONS
CHAPTER 3. ADMINISTRATION OF OATHS AND AFFIRMATIONS

§ 2093. Authority to administer oaths and affirmations

(a) A court, judge or clerk of any court, justice, notary public, and officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths and affirmations.

(b) (1) A shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths and affirmations and may perform the duties of the deposition officer pursuant to Chapter 9 (commencing with Section 2025.010) of Title 4. The certified shorthand reporter shall be entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(2) This subdivision shall also apply to depositions taken by telephone or other remote electronic means as specified in Chapter 2 (commencing with Section 2017.010), Chapter 3 (commencing with Section 2017.710), and Chapter 9 (commencing with Section 2025.010) of Title 4.

(c) (1) A former judge or justice of a court of record in this state who retired or resigned from office shall have the power to administer oaths and affirmations, if both of the following conditions are met:

(A) The former judge or justice requests and receives a certification from the Commission on Judicial Performance pursuant to paragraph (2).

(B) A formal disciplinary proceeding was not pending at the time of the retirement or resignation.

(2) (A) A former judge or justice of a court of record in this state who retired or

resigned from office may apply to the commission to receive a certification to administer oaths and affirmations. The Commission shall supply the required forms to an applicant upon request.

(B) (I) A certification application shall be accompanied by a medical certification. If an applicant's medical certification indicates that the applicant does not have a medical condition that would impair his or her ability to administer oaths and affirmations, the commission shall issue a certification to the applicant to administer oaths and affirmations. Except as provided in clause (ii), a certification issued pursuant to this paragraph shall be valid for a period of five years from the date of issuance.

(II) If an applicant's medical certification indicates that the applicant has a medical condition that may impair his or her ability to administer oaths and affirmations, but does not do so at the time the medical certification is submitted with the application, the commission shall issue a certification to administer oaths and affirmations, but the certification shall only be valid for a period of two years from the date of issuance.

(3) Notwithstanding paragraph (1), a former judge or justice of a court of record who received a certification from the commission before January 1, 2016, to administer oaths and affirmations may continue to exercise this power until January 1, 2017, at which time he or she shall reapply for certification pursuant to paragraph (2).

(4) The commission may charge a regulatory fee not to exceed fifteen dollars (\$15) for each certification application submitted pursuant to this subdivision to cover its costs, including costs to review the medical certification.

(D) A rule, or regulation regarding the confidentiality of proceedings of the Commission shall not be construed to prohibit the Commission from issuing a certificate as provided for in this section.

Enacted 1872. Amended Stats 1986 ch 1417 § 3, ch 1418 § 1.3; Stats 1988 ch 1032 § 1; Stats 2001 ch 812 § 12 (AB 223); Stats 2004 ch 182 § 24 (AB 3081), operative July 1, 2005; Stats 2015 ch 308 § 1 (AB 1028), operative January 1, 2016.

§ 2094. Form of oath, affirmation, or declaration

(a) An oath, affirmation, or declaration in an action or a proceeding, may be administered by obtaining an affirmative response to one of the following questions:

(1) "Do you solemnly state that the evidence you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth, so help you God?"

(2) "Do you solemnly state, under penalty of perjury, that the evidence that you shall give in this issue (or matter) shall be the truth, the whole truth, and nothing but the truth?"

(b) In the alternative to the forms prescribed in subdivision (a), the court may administer an oath, affirmation, or declaration in an action or a proceeding in a manner that is calculated to awaken the person's conscience and impress the person's mind with the duty to tell the truth. The court shall satisfy itself that the person testifying understands that his or her testimony is being given under penalty of perjury.

Enacted 1872. Amended Code Amdts 1873-74 ch 383 § 250; Stats 2000 ch 688 § 13 (AB 1669); Stats 2002 ch 806 § 17 (AB 3027).

ELECTIONS CODE
DIVISION 8. NOMINATIONS
PART 1. PRIMARY ELECTION NOMINATIONS
CHAPTER 1. DIRECT PRIMARY

ARTICLE 5. VERIFICATION OF NOMINATION SIGNATURES

§ 8080. No fee or charge shall be made or collected by any officer for verifying any nomination document or circulator's affidavit.

Added Stats 1994 ch 920 § 2 (SB 1547).

GOVERNMENT CODE GENERAL PROVISIONS

§ 15. Oath

"Oath" includes affirmation.

Enacted Stats 1943 ch 134.

§ 16. Signature or subscription by mark

"Signature" or "subscription" includes mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

Enacted Stats 1943 ch 134.

§ 16.5. Use of digital signature

(a) In any written communication with a public entity, as defined in Section 811.2, in which a signature is required or used, any party to the communication may affix a signature by use of a digital signature that complies with the requirements of this section. The use of a digital signature shall have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:

(1) It is unique to the person using it.

(2) It is capable of verification.

(3) It is under the sole control of the person using it.

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(5) It conforms to regulations adopted by the Secretary of State. Initial regulations shall be adopted no later than January 1, 1997. In developing these regulations, the secretary shall seek the advice of public and private entities, including, but not limited to, the Department of Information Technology, the California Environmental Protection Agency, and the Department of General Services. Before the secretary adopts the regulations, he or she shall hold at least one public hearing to receive comments.

(b) The use or acceptance of a digital signature shall be at the option of the parties. Nothing in this section shall require a public entity to use or permit the use of a digital signature.

(c) Digital signatures employed pursuant to Section 71066 of the Public Resources Code are exempted from this section.

(d) "Digital signature" means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.

Added Stats 1995 ch 594 § 1 (AB 1577).

TITLE 1. GENERAL
DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 1. GENERAL
ARTICLE 8. MISCELLANEOUS

§ 1225. Right to administer and certify oaths; Certification of former judge

(A) An executive officer, a judicial officer, and a Member of the Legislature may administer and certify oaths.

(B) (1) A former judge of a court of record in this state who retired or resigned from office shall be deemed a judicial officer for purposes of this section, if he or she satisfies the conditions set forth in subdivision (c) of section 2093 of the Code of Civil Procedure.

(C) A law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall not be construed to prohibit the Commission from issuing a certificate as provided for in this section.

Added Stats 1951 ch 655 § 22. Amended Stats 1959 ch 218 § 1; Stats 1986 ch 1418 § 1.5; Stats 2015 ch 308 § 2 (AB 1028), operative January 1, 2016.

**CHAPTER 2. APPOINTMENTS, NOMINATIONS,
COMMISSIONS, AND OATHS**
ARTICLE 4. OATH OF OFFICE

§ 1360. Necessity of taking constitutional oath

Unless otherwise provided, before any officer enters on the duties of his office, he shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution of California.

Enacted Stats 1943 ch 134. Amended Stats 1953 ch 1250 § 1.

§ 1362. Administration by authorized officer

Unless otherwise provided, the oath may be taken before any officer authorized to administer oaths.

Enacted Stats 1943 ch 134.

DIVISION 7. MISCELLANEOUS
CHAPTER 2. FEES

§ 6100. Payment for performance of services; notaries public

Officers of the state, or of a county or judicial district, shall not perform any official services unless upon the payment of the fees prescribed by law for the performance of the services, except as provided in this chapter.

This section shall not be construed to prohibit any notary public, except a notary public whose fees are required by law to be remitted to the state or any other public agency, from performing notarial services without charging a fee.

Enacted Stats 1943 ch 134. Amended Stats 1951 ch 1553 § 17, operative January 1, 1952; Stats 1977 ch 179 § 1, effective June 30, 1977, ch 197 § 1.

§ 6107. Veterans

(a) No public entity, including the state, a county, city, or other political subdivision,

nor any officer or employee thereof, including notaries public, shall demand or receive any fee or compensation for doing any of the following:

(1) Recording, indexing, or issuing certified copies of any discharge, certificate of service, certificate of satisfactory service, notice of separation, or report of separation of any member of the Armed Forces of the United States.

(2) Furnishing a certified copy of, or searching for, any public record that is to be used in an application or claim for a pension, allotment, allowance, compensation, insurance (including automatic insurance), or any other benefits under any act of Congress for service in the Armed Forces of the United States or under any law of this state relating to veterans' benefits.

(3) Furnishing a certified copy of, or searching for, any public record that is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration.

(4) Rendering any other service in connection with an application or claim referred to in paragraph (2) or (3).

(b) A certified copy of any record referred to in subdivision (a) may be made available only to one of the following:

(1) The person who is the subject of the record upon presentation of proper photo identification.

(2) A family member or legal representative of the person who is the subject of the record upon presentation of proper photo identification and certification of their relationship to the subject of the record.

(3) A county office that provides veteran's benefits services upon written request of that office.

(4) A United States official upon written request of that official. A public officer or employee is liable on his or her official bond for failure or refusal to render the services. Enacted Stats 1943 ch 134. Amended Stats 1943 ch 319 § 3; Stats 1st Ex Sess 1946 ch 92 § 2; Stats 1951 ch 241 § 1; Stats 1953 ch 1734 § 2; Stats 1979 ch 730 § 52, operative January 1, 1981; Stats 1980 ch 89 § 1; Stats 2004 ch 6 § 1 (AB 1179), effective January 22, 2004.

§ 6108. Oath of office; claim against county

No officer of a county or judicial district shall charge or receive any fee or compensation for administering or certifying the oath of office or for filing or swearing to any claim or demand against any county in the State.

Enacted Stats 1943 ch 134. Amended Stats 1951 ch 1553 § 18, operative January 1, 1952.

§ 6109. Account of fees received

Every officer of a county or judicial district, upon receiving any fees for official duty or service, may be required by the person paying the fees to make out in writing and to deliver to the person a particular account of the fees. The account shall specify for what the fees, respectively, accrued, and the officer shall receipt it. If the officer refuses or neglects to do so when required, he is liable to the person paying the fees in treble the amount so paid.

Enacted Stats 1943 ch 134. Amended Stats 1951 ch 1553 § 19, operative January 1, 1952.

§ 6110. Performance of services

Upon payment of the fees required by law, the officer shall perform the services required.

For every failure or refusal to do so, the officer is liable upon his official bond.
Enacted Stats 1943 ch 134.

CHAPTER 3. CRIMES RELATING TO PUBLIC RECORDS, DOCUMENTS, AND CERTIFICATES

§ 6203. False certificate or writing by officer

(a) Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he makes and delivers as true any certificate or writing containing statements which he knows to be false.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

Enacted Stats 1943 ch 134. Amended Stats 2007 ch 399 § 3 (AB 886), effective January 1, 2008.

CHAPTER 7. HOLIDAYS

§ 6707. Last day for filing an instrument

When the last day for filing any instrument or other document with a state agency falls upon a Saturday or holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

Added Stats 1957 ch 1649 § 1.

CHAPTER 8. COMPUTATION OF TIME

§ 6800. Computation of time in which act is to be done

The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.

Added Stats 1951 ch 655 § 26.

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA

DIVISION 1. GENERAL

CHAPTER 3. NOTARIES PUBLIC

§ 8200. Appointment and commission; number; jurisdiction

The Secretary of State may appoint and commission notaries public in such number as the Secretary of State deems necessary for the public convenience. Notaries public may act as such notaries in any part of this state.

Enacted 1943 ch 134. Amended Stats 1943 ch 328 § 2; Stats 1953 ch 598 § 1; Stats 1957 ch 743 § 1; Stats 1959 ch 1970 § 1; Stats 1967 ch 1139 § 1; Stats 1977 ch 1009 § 1.

§ 8200.5. [Section repealed 1986.]

§ 8201. Qualifications to be a notary public; proof of course completion;

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reappointment

(a) Every person appointed as notary public shall meet all of the following requirements:

(1) Be at the time of appointment a legal resident of this state, except as otherwise provided in Section 8203.1.

(2) Be not less than 18 years of age.

(3) For appointments made on or after July 1, 2005, have satisfactorily completed a six-hour course of study approved by the Secretary of State pursuant to Section 8201.2 concerning the functions and duties of a notary public.

(4) Have satisfactorily completed a written examination prescribed by the Secretary of State to determine the fitness of the person to exercise the functions and duties of the office of notary public. All questions shall be based on the law of this state as set forth in the booklet of the laws of California relating to notaries public distributed by the Secretary of State.

(b) (1) Commencing July 1, 2005, each applicant for notary public shall provide satisfactory proof that he or she has completed the course of study required pursuant to paragraph (3) of subdivision (a) prior to approval of his or her appointment as a notary public by the Secretary of State.

(2) Commencing July 1, 2005, an applicant for notary public who holds a California notary public commission, and who has satisfactorily completed the six-hour course of study required pursuant to paragraph (1) at least one time, shall provide satisfactory proof when applying for reappointment as a notary public that he or she has satisfactorily completed a three-hour refresher course of study prior to reappointment as a notary public by the Secretary of State.

Enacted Stats 1943 ch 134. Amended Stats 1955 ch 244 § 1; Stats 1959 ch 1970 § 2; Stats 1961 ch 1470 § 1; Stats 1967 ch 1139 § 2; Stats 1968 ch 683 § 1; Stats 1972 ch 579 § 21; Stats 1973 ch 826 § 1; Stats 1977 ch 1009 § 2; Stats 2003 ch 513 § 1 (AB 1210); Stats 2004 ch 539 § 1 (AB 2062).

§ 8201.1. Additional qualifications; determination; identification; fingerprints

(a) Prior to granting an appointment as a notary public, the Secretary of State shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. To assist in determining the identity of the applicant and whether the applicant has been convicted of a disqualifying crime specified in subdivision (b) of Section 8214.1, the Secretary of State shall require that applicants be fingerprinted.

(b) Applicants shall submit to the Department of Justice fingerprint images and related information required by the department for the purpose of obtaining information as to the existence and content of a record of state and federal convictions and arrests and information as to the existence and content of a record of state and federal arrests for which the department establishes that the person is free on bail, or on his or her recognizance, pending trial or appeal.

(c) The department shall forward the fingerprint images and related information received pursuant to subdivision (a) to the Federal Bureau of Investigation and request a federal summary of criminal information.

(d) The department shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the Secretary of State pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(e) The Secretary of State shall request from the department subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to subdivision (a).

(f) The department shall charge a fee sufficient to cover the cost of processing the requests described in this section.

Added Stats 1977 ch 1009 § 3. Amended Stats 2007 ch 399 § 4 (AB 886), effective January 1, 2008.

§ 8201.2. Review of course of study for notary public; approval of education course of study, violation of regulations; civil penalties

(a) The Secretary of State shall review the course of study proposed by any vendor to be offered pursuant to paragraph (3) of subdivision (a) and paragraph (2) of subdivision (b) of Section 8201. If the course of study includes all material that a person is expected to know to satisfactorily complete the written examination required pursuant to paragraph (4) of subdivision (a) of Section 8201, the Secretary of State shall approve the course of study.

(b) (1) The Secretary of State shall, by regulation, prescribe an application form and adopt a certificate of approval for the notary public education course of study proposed by a vendor.

(2) The Secretary of State may also provide a notary public education course of study.

(c) The Secretary of State shall compile a list of all persons offering an approved course of study pursuant to subdivision (a) and shall provide the list with every booklet of the laws of California relating to notaries public distributed by the Secretary of State.

(d) (1) A person who provides notary public education and violates any of the regulations adopted by the Secretary of State for approved vendors is subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each violation and shall be required to pay restitution where appropriate.

(2) The local district attorney, city attorney, or the Attorney General may bring a civil action to recover the civil penalty prescribed pursuant to this subdivision. A public prosecutor shall inform the Secretary of State of any civil penalty imposed under this section. Added Stats 2003 ch 513 § 2 (AB 1210). Amended Stats 2007 ch 399 § 5 (AB 886), effective January 1, 2008.

§ 8201.5. Application form; confidential nature; use of information

The Secretary of State shall require an applicant for appointment and commission as a notary public to complete an application form and submit a photograph of their person as prescribed by the Secretary of State. Information on this form filed by an applicant with the Secretary of State, except for his or her name and address, is confidential and no individual record shall be divulged by an official or employee having access to it to any person other than the applicant, his or her authorized representative, or an employee or officer of the federal government, the state government, or a local agency, as defined in subdivision (b) of Section 6252 of the Government Code, acting in his or her official capacity. That information shall be used by the Secretary of State for the sole purpose of carrying out the duties of this chapter.

Added Stats 1969 ch 1313 § 1. Amended Stats 2007 ch 399 § 6 (AB 886), effective January 1, 2008.

§ 8202. Execution of jurat; administration of oath or affirmation to affiant; attachment to affidavit

(a) When executing a jurat, a notary shall administer an oath or affirmation to the affiant and shall determine, from satisfactory evidence as described in Section 1185 of the Civil Code, that the affiant is the person executing the document. The affiant shall sign the document in the presence of the notary.

(b) To any affidavit subscribed and sworn to before a notary, there shall be attached a jurat that includes a notice at the top, in an enclosed box, stating: "A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document." This notice shall be legible.

(c) The physical format of the boxed notice at the top of the jurat required pursuant to subdivision (d) is an example, for purposes of illustration and not limitation, of the physical format of a boxed notice fulfilling the requirements of subdivision (b).

(d) A jurat executed pursuant to this section shall be in the following form:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal _____

Signature _____

Added Stats 2004 ch 539 § 2 (AB 2062). Amended Stats 2007 ch 399 § 7 (AB 886), effective January 1, 2008; Stats 2014 ch 197 § 3 (SB 1050), effective January 1, 2015.

§ 8202.5. State, county and school district employees; certificates; expenses

The Secretary of State may appoint and commission the number of state, city, county, and public school district employees as notaries public to act for and on behalf of the governmental entity for which appointed which the Secretary of State deems proper. Whenever a notary is appointed and commissioned, a duly authorized representative of the employing governmental entity shall execute a certificate that the appointment is made for the purposes of the employing governmental entity, and whenever the certificate is filed with any state or county officer, no fees shall be charged by the officer for the filing or issuance of any document in connection with the appointment.

The state or any city, county, or school district for which the notary public is appointed and commissioned pursuant to this section may pay from any funds available for its support the premiums on any bond and the cost of any stamps, seals, or other supplies required in connection with the appointment, commission, or performance of the duties of the notary public.

Any fees collected or obtained by any notary public whose documents have been filed without charge and for whom bond premiums have been paid by the employer of the notary public shall be remitted by the notary public to the employing agency which shall deposit the funds to the credit of the fund from which the salary of the notary public is paid.

Added Stats 1968 ch 956 § 2. Amended Stats 1977 ch 1009 § 5; Stats 1986 ch 1019 § 1.

§ 8202.6. [Section repealed 1978.]

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§ 8202.7. Private employers; agreement to pay premium on bonds and costs of supplies; remission of fees to employer

A private employer, pursuant to an agreement with an employee who is a notary public, may pay the premiums on any bond and the cost of any stamps, seals, or other supplies required in connection with the appointment, commission, or performance of the duties of such notary public. Such agreement may also provide for the remission of fees collected by such notary public to the employer, in which case any fees collected or obtained by such notary public while such agreement is in effect shall be remitted by such notary public to the employer which shall deposit such funds to the credit of the fund from which the compensation of the notary public is paid.

Added Stats 1977 ch 197 § 2.

§ 8202.8. Private employers; limitation on provision of notarial services

Notwithstanding any other provision of law, a private employer of a notary public who has entered into an agreement with his or her employee pursuant to Section 8202.7 may limit, during the employee's ordinary course of employment, the providing of notarial services by the employee solely to transactions directly associated with the business purposes of the employer.

Added Stats 1981 ch 236 § 1.

§ 8203. [Section repealed 1974.]

§ 8203.1. Military and naval reservations; appointment and commission of notaries; qualifications

The Secretary of State may appoint and commission notaries public for the military and naval reservations of the Army, Navy, Coast Guard, Air Force, and Marine Corps of the United States, wherever located in the state; provided, however, that the appointee shall be a citizen of the United States, not less than 18 years of age, and must meet the requirements set forth in paragraphs (3) and (4) of subdivision (a) of Section 8201.

Added Stats 1947 ch 1360 § 1. Amended Stats 1955 ch 244 § 2; Stats 1959 ch 1970 § 4; Stats 1967 ch 1139 § 3; Stats 1972 ch 579 § 22; Stats 1977 ch 1009 § 7; Stats 2003 ch 513 § 3 (AB 1210).

§ 8203.2. Military and naval reservations, recommendation of commanding officer; jurisdiction of notary

Such notaries public shall be appointed only upon the recommendation of the commanding officer of the reservation in which they are to act, and they shall be authorized to act only within the boundaries of this reservation.

Added Stats 1947 ch 1360 § 2.

§ 8203.3. Military and naval reservations, qualifications of notaries

In addition to the qualifications established in Section 8203.1, appointment will be made only from among those persons who are federal civil service employees at the reservation in which they will act as notaries public.

Added Stats 1947 ch 1360 § 3. Amended Stats 1955 ch 244 § 3.

§ 8203.4. Military and naval reservations; term of office; termination; resignation

The term of office shall be as set forth in Section 8204, except that the appointment shall

terminate if the person shall cease to be employed as a federal civil service employee at the reservation for which appointed. The commanding officer of the reservation shall notify the Secretary of State of termination of employment at the reservation for which appointed within 30 days of such termination. A notary public whose appointment terminates pursuant to this section will have such termination treated as a resignation. Added Stats 1947 ch 1360 § 4. Amended Stats 1977 ch 1009 § 8.

§ 8203.5. Military and naval reservations, jurat

In addition to the name of the State, the jurat shall also contain the name of the reservation in which the instrument is executed.

Added Stats 1947 ch 1360 § 5. Amended Stats 1959 ch 1970 § 5.

§ 8203.6. Military and naval reservations, fees

No fees shall be collected by such notaries public for service rendered within the reservation in the capacity of a notary public.

Added Stats 1947 ch 1360 § 6.

§ 8203.7. [Section repealed 1973.]

§ 8204. Term of office

The term of office of a notary public is for four years commencing with the date specified in the commission.

Enacted Stats 1943 ch 134. Amended Stats 1977 ch 1009 § 9.

§ 8204.1. Cancellation of commission

The Secretary of State may cancel the commission of a notary public if a check or other remittance accepted as payment for the examination, application, commission, and fingerprint fee is not paid upon presentation to the financial institution upon which the check or other remittance was drawn. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall first give a written notice of the applicability of this section to the notary public or the person submitting the instrument. Thereafter, if the amount is not paid by a cashier's check or the equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. This second notice shall be given at least 20 days after the first notice, and no more than 90 days after the commencement date of the commission.

Added Stats 1997 ch 319 § 2 (SB 618).

§ 8205. Duties

(a) It is the duty of a notary public, when requested:

(1) To demand acceptance and payment of foreign and inland bills of exchange, or promissory notes, to protest them for nonacceptance and nonpayment, and, with regard only to the nonacceptance or nonpayment of bills and notes, to exercise any other powers and duties that by the law of nations and according to commercial usages, or by the laws of any other state, government, or country, may be performed by a notary. This paragraph applies only to a notary public employed by a financial institution, during the course and scope of the notary's employment with the financial institution.

(2) To take the acknowledgment or proof of advance health care directives, powers of attorney, mortgages, deeds, grants, transfers, and other instruments of writing executed by any person, and to give a certificate of that proof or acknowledgment, endorsed on or attached to the instrument. The certificate shall be signed by the notary public in the notary public's own handwriting. A notary public may not accept any acknowledgment or proof of any instrument that is incomplete.

(3) To take depositions and affidavits, and administer oaths and affirmations, in all matters incident to the duties of the office, or to be used before any court, judge, officer, or board. Any deposition, affidavit, oath, or affirmation shall be signed by the notary public in the notary public's own handwriting.

(4) To certify copies of powers of attorney under Section 4307 of the Probate Code. The certification shall be signed by the notary public in the notary public's own handwriting.

(b) It shall further be the duty of a notary public, upon written request:

(1) To furnish to the Secretary of State certified copies of the notary's journal.

(2) To respond within 30 days of receiving written requests sent by certified mail or any other means of physical delivery that provides a receipt from the Secretary of State's office for information relating to official acts performed by the notary.

Enacted Stats 1943 ch 134. Amended Stats 1951 ch 516 § 1; Stats 1959 ch 670 § 1; Stats 1967 ch 50 § 1; Stats 1977 ch 1009 § 10; Stats 1995 ch 300 § 1 (SB 984), effective August 3, 1995, ch 570 § 1 (SB 1121); Stats 1997 ch 319 § 3 (SB 618); Stats 1999 ch 658 § 1 (AB 891), operative July 1, 2000; Stats 2011 ch 269 § 5 (AB 75), effective January 1, 2012; Stats 2016, ch. 366, § 4, effective January 1, 2017.

§ 8205.1. [Section repealed 1959.]

§ 8206. Sequential journal; contents; deeds affecting real property; copies of pages

(a) (1) A notary public shall keep one active sequential journal at a time, of all official acts performed as a notary public. The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. Failure to secure the journal shall be cause for the Secretary of State to take administrative action against the commission held by the notary public pursuant to Section 8214.1.

(2) The journal shall be in addition to, and apart from, any copies of notarized documents that may be in the possession of the notary public and shall include all of the following:

(A) Date, time, and type of each official act.

(B) Character of every instrument sworn to, affirmed, acknowledged, or proved before the notary.

(C) The signature of each person whose signature is being notarized.

(D) A statement as to whether the identity of a person making an acknowledgment or taking an oath or affirmation was based on satisfactory evidence. If identity was established by satisfactory evidence pursuant to Section 1185 of the Civil Code, the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document.

(E) If the identity of the person making the acknowledgment or taking the oath or affirmation was established by the oaths or affirmations of two credible witnesses whose

identities are proven to the notary public by presentation of any document satisfying the requirements of paragraph (3) or (4) of subdivision (b) of Section 1185 of the Civil Code, the notary public shall record in the journal the type of documents identifying the witnesses, the identifying numbers on the documents identifying the witnesses, and the dates of issuance or expiration of the documents identifying the witnesses.

(F) The fee charged for the notarial service.

(G) If the document to be notarized is a deed, quitclaim deed, deed of trust, or other document affecting real property, or a power of attorney document, the notary public shall require the party signing the document to place his or her right thumbprint in the journal. If the right thumbprint is not available, then the notary shall have the party use his or her left thumb, or any available finger and shall so indicate in the journal. If the party signing the document is physically unable to provide a thumbprint or fingerprint, the notary shall so indicate in the journal and shall also provide an explanation of that physical condition. This paragraph shall not apply to a trustee's deed resulting from a decree of foreclosure or a nonjudicial foreclosure pursuant to Section 2924 of the Civil Code, nor to a deed of reconveyance.

(b) If a sequential journal of official acts performed by a notary public is stolen, lost, misplaced, destroyed, damaged, or otherwise rendered unusable as a record of notarial acts and information, the notary public shall immediately notify the Secretary of State by certified or registered mail or any other means of physical delivery that provides a receipt. The notification shall include the period of the journal entries, the notary public commission number, and the expiration date of the commission, and when applicable, a photocopy of any police report that specifies the theft of the sequential journal of official acts.

(c) Upon written request of any member of the public, which request shall include the name of the parties, the type of document, and the month and year in which notarized, the notary shall supply a photostatic copy of the line item representing the requested transaction at a cost of not more than thirty cents (\$0.30) per page.

(d) The journal of notarial acts of a notary public is the exclusive property of that notary public, and shall not be surrendered to an employer upon termination of employment, whether or not the employer paid for the journal, or at any other time. The notary public shall not surrender the journal to any other person, except the county clerk, pursuant to Section 8209, or immediately, or if the journal is not present then as soon as possible, upon request to a peace officer investigating a criminal offense who has reasonable suspicion to believe the journal contains evidence of a criminal offense, as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code, acting in his or her official capacity and within his or her authority. If the peace officer seizes the notary journal, he or she must have probable cause as required by the laws of this state and the United States. A peace officer or law enforcement agency that seizes a notary journal shall notify the Secretary of State by facsimile within 24 hours, or as soon as possible thereafter, of the name of the notary public whose journal has been seized. The notary public shall obtain a receipt for the journal, and shall notify the Secretary of State by certified mail or any other means of physical delivery that provides a receipt within 10 days that the journal was relinquished to a peace officer. The notification shall include the period of the journal entries, the commission number of the notary public, the expiration date of the commission, and a photocopy of the receipt. The notary public shall obtain a new

sequential journal. If the journal relinquished to a peace officer is returned to the notary public and a new journal has been obtained, the notary public shall make no new entries in the returned journal. A notary public who is an employee shall permit inspection and copying of journal transactions by a duly designated auditor or agent of the notary public's employer, provided that the inspection and copying is done in the presence of the notary public and the transactions are directly associated with the business purposes of the employer. The notary public, upon the request of the employer, shall regularly provide copies of all transactions that are directly associated with the business purposes of the employer, but shall not be required to provide copies of any transaction that is unrelated to the employer's business. Confidentiality and safekeeping of any copies of the journal provided to the employer shall be the responsibility of that employer.

(e) The notary public shall provide the journal for examination and copying in the presence of the notary public upon receipt of a subpoena duces tecum or a court order, and shall certify those copies if requested.

(f) Any applicable requirements of, or exceptions to, state and federal law shall apply to a peace officer engaged in the search or seizure of a sequential journal.

Added Stats 1992 ch 815 § 2 (SB 1842), operative January 1, 1996; Amended Stats 1995 ch 569 § 1 (AB 1828), ch 570 § 2.5 (SB 1121), operative January 1, 1996; Stats 1997 ch 319 § 4 (SB 618); Stats 2004 ch 539 § 3 (AB 2062); Stats 2007 ch 399 § 8 (AB 886), effective January 1, 2008; Stats 2008 ch 67 § 3 (AB 2452), effective January 1, 2009; Stats 2009 ch 140 § 81 (AB 1164), effective January 1, 2010; Stats 2012 ch 202 § 2 (AB 2326), effective January 1, 2013; Stats 2016, ch. 366 § 5, effective January 1, 2017..

§ 8206.5. Notaries; supplying photostatic copies on request; defending position in a disciplinary proceeding

Upon receiving a request for a copy of a transaction pursuant to subdivision (c) of Section 8206, the notary shall respond to the request within 15 business days after receipt of the request and either supply the photostatic copy requested or acknowledge that no such line item exists. In a disciplinary proceeding for noncompliance with subdivision (c) of Section 8206 or this section, a notary may defend his or her delayed action on the basis of unavoidable, exigent business or personal circumstances.

Added Stats 2007 ch 496 § 1 (AB 434), effective January 1, 2008.

§ 8207. Seal

A notary public shall provide and keep an official seal, which shall clearly show, when embossed, stamped, impressed or affixed to a document, the name of the notary, the State Seal, the words "Notary Public," and the name of the county wherein the bond and oath of office are filed, and the date the notary public's commission expires. The seal of every notary public commissioned on or after January 1, 1992, shall contain the sequential identification number assigned to the notary and the sequential identification number assigned to the manufacturer or vendor. The notary public shall authenticate with the official seal all official acts.

A notary public shall not use the official notarial seal except for the purpose of carrying out the duties and responsibilities as set forth in this chapter. A notary public shall not use the title "notary public" except for the purpose of rendering notarial service.

The seal of every notary public shall be affixed by a seal press or stamp that will print or emboss a seal which legibly reproduces under photographic methods the required elements of the seal. The seal may be circular not over two inches in diameter, or may be

a rectangular form of not more than one inch in width by two and one-half inches in length, with a serrated or milled edged border, and shall contain the information required by this section.

The seal shall be kept in a locked and secured area, under the direct and exclusive control of the notary. Failure to secure the seal shall be cause for the Secretary of State to take administrative action against the commission held by the notary public pursuant to Section 8214.1.

The official seal of a notary public is the exclusive property of that notary public, and shall not be surrendered to an employer upon the termination of employment, whether or not the employer paid for the seal, or to any other person. The notary, or his or her representative, shall destroy or deface the seal upon termination, resignation, or revocation of the notary's commission.

This section shall become operative on January 1, 1992.
Added Stats 1990 ch 828 § 2 (AB 1593), operative January 1, 1992. Amended Stats 1997 ch 319 § 5 (SB 618).

§ 8207.1. Identification number

The Secretary of State shall assign a sequential identification number to each notary which shall appear on the notary commission.

This section shall become operative on January 1, 1992.
Added Stats 1990 ch 828 § 3 (AB 1593), operative January 1, 1992.

§ 8207.2. Manufacture, duplication, and sale of seal or stamp; procedures and guidelines for issuance of seals; certificate of authorization

(a) No notary seal or press stamp shall be manufactured, duplicated, sold, or offered for sale unless authorized by the Secretary of State.

(b) The Secretary of State shall develop and implement procedures and guidelines for the issuance of notary seals on or before January 1, 1992.

(c) The Secretary of State shall issue a permit with a sequential identification number to each manufacturer or vendor authorized to issue notary seals. The Secretary of State may establish a fee for the issuance of the permit which shall not exceed the actual costs of issuing the permit.

(d) The Secretary of State shall develop a certificate of authorization to purchase a notary stamp from an authorized vendor.

(e) The certificate of authorization shall be designed to prevent forgeries and shall contain a sequential identification number.

(f) This section shall become operative on January 1, 1992.
Added Stats 1990 ch 828 § 4 (AB 1593), operative January 1, 1992.

§ 8207.3. Certificates of authorization; authorization to provide seal; lost, misplaced, damaged or otherwise unworkable seal

(a) The Secretary of State shall issue certificates of authorization with which a notary public can obtain an official notary seal.

(b) A vendor or manufacturer is authorized to provide a notary with an official seal only upon presentation by the notary public of a certificate of authorization.

(c) A vendor of official seals shall note the receipt of certificates of authorization and sequential identification numbers of certificates presented by a notary public upon a

certificate of authorization.

(d) A copy of a certificate of authorization shall be retained by a vendor and the original, which shall contain a sample impression of the seal issued to the notary public, shall be submitted to the Secretary of State for verification and recordkeeping. The Secretary of State shall develop guidelines for submitting certificates of authorization by vendors.

(e) Any notary whose official seal is lost, misplaced, destroyed, broken, damaged, or is rendered otherwise unworkable shall immediately mail or deliver written notice of that fact to the Secretary of State. The Secretary of State, within five working days after receipt of the notice, if requested by a notary, shall issue a certificate of authorization which a notary may use to obtain a replacement seal.

(f) This section shall become operative on January 1, 1992.

Added Stats 1990 ch 828 § 5 (AB 1593), operative January 1, 1992.

§ 8207.4. Violations; penalties

(a) Any person who willfully violates any part of Section 8207.1, 8207.2, 8207.3, or 8207.4 shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500) for each violation, which may be recovered in a civil action brought by the Attorney General or the district attorney or city attorney, or by a city prosecutor in any city and county.

(b) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

(c) This section shall become operative on January 1, 1992.

(Added by Stats. 1990, c. 828, § 6. Section operative January 1, 1992, by its own provisions.)

§ 8208. Protest of bill or note for nonacceptance or nonpayment

The protest of a notary public acting in the course and scope of employment by a financial institution, under his or her hand and official seal, of a bill of exchange or promissory note for nonacceptance or nonpayment, specifying any of the following is prima facie evidence of the facts recited therein:

(a) The time and place of presentment.

(b) The fact that presentment was made and the manner thereof.

(c) The cause or reason for protesting the bill.

(d) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

Enacted Stats 1943 ch 134. Amended Stats 1983 ch 142 § 29; Stats 2011 ch 269 § 6 (AB 75), effective January 1, 2012.

§ 8209. Resignation, disqualification or removal of notary; records delivered to clerk; misdemeanor; death; destruction of records

(a) If any notary public resigns, is disqualified, removed from office, or allows his or her appointment to expire without obtaining reappointment within 30 days, all notarial records and papers shall be delivered within 30 days to the clerk of the county in which the notary public's current official oath of office is on file. If the notary public willfully fails or refuses to deliver all notarial records and papers to the county clerk within 30 days, the person is guilty of a misdemeanor and shall be personally liable for damages to any person injured by that action or inaction.

(b) In the case of the death of a notary public, the personal representative of the deceased shall promptly notify the Secretary of State of the death of the notary public and shall deliver all notarial records and papers of the deceased to the clerk of the county in which the notary public's official oath of office is on file.

(c) After 10 years from the date of deposit with the county clerk, if no request for, or reference to such records has been made, they may be destroyed upon order of court.
Enacted Stats 1943 ch 134. Amended Stats 1955 ch 244 § 4; Stats 1959 ch 1970 § 8; Stats 1969 ch 45 § 1; Stats 1977 ch 1009 § 13; Stats 1982 ch 1543 § 4.

§ 8210. [Section repealed 1978.]

§ 8211. Fees

Fees charged by a notary public for the following services shall not exceed the fees prescribed by this section.

(a) For taking an acknowledgment or proof of a deed, or other instrument, to include the seal and the writing of the certificate, the sum of ten dollars (\$15) for each signature taken.

(b) For administering an oath or affirmation to one person and executing the jurat, including the seal, the sum of ten dollars (\$15).

(c) For all services rendered in connection with the taking of any deposition, the sum of twenty dollars (\$30), and in addition thereto, the sum of five dollars (\$7) for administering the oath to the witness and the sum of five dollars (\$7) for the certificate to the deposition.

(d) No fee may be charged to notarize signatures on vote by mail ballot identification envelopes or other voting materials.

(e) For certifying a copy of a power of attorney under Section 4307 of the Probate Code the sum of ten dollars (\$15).

(f) In accordance with Section 6107, no fee may be charged to a United States military veteran for notarization of an application or a claim for a pension, allotment, allowance, compensation, insurance, or any other veteran's benefit.

Added Stats 1983 ch 249 § 2. Amended Stats 1991 ch 393 § 21 (SB 1098), effective September 12, 1991; Stats 1993 ch 1044 § 2 (AB 1090); Stats 1995 ch 300 § 2 (SB 984), effective August 3, 1995; Stats 2000 ch 194 § 1 (AB 2687); Stats 2007 ch 508 § 121 (AB 1243), effective January 1, 2008; Stats 2011 ch 269 § 7 (AB 75), effective January 1, 2012.

§ 8211.5. [Section repealed 1984.]

§ 8211.8. [Section repealed 1984.]

§ 8212. Bond; amount; form

Every person appointed a notary public shall execute an official bond in the sum of fifteen thousand dollars (\$15,000). The bond shall be in the form of a bond executed by an admitted surety insurer and not a deposit in lieu of bond.

Enacted Stats 1943 ch 134. Amended Stats 1943 ch 1010 § 1; Stats 1959 ch 1970 § 9; Stats 1977 ch 1009 § 15; Stats 1982 ch 517 § 246.5; Stats 1996 ch 79 § 1 (AB 3361).

§ 8213. Bonds and oaths; filing; certificate; copy of oath as evidence; transfer to new county; fees

(a) No later than 30 days after the beginning of the term prescribed in the

commission, every person appointed a notary public shall file an official bond and an oath of office in the office of the county clerk of the county within which the person maintains a principal place of business as shown in the application submitted to the Secretary of State, and the commission shall not take effect unless this is done within the 30-day period. A person appointed to be a notary public shall take and subscribe the oath of office either in the office of that county clerk or before another notary public in that county. If the oath of office is taken and subscribed before the county clerk, the person appointed to be a notary public shall present an identification document meeting the requirements of subparagraph (A) or (B) of paragraph (3), or of subparagraph (A) or (E) or paragraph (4), of subdivision (b) of Section 1185 of the Civil Code to the county clerk as satisfactory evidence of identity. If the oath of office is taken and subscribed before a notary public, the oath and bond may be filed with the county clerk by certified mail or any other means of physical delivery that provides a receipt. Upon the filing of the oath and bond, the county clerk shall immediately transmit to the Secretary of State a certificate setting forth the fact of the filing and containing a copy of the official oath, personally signed by the notary public in the form set forth in the commission and shall immediately deliver the bond to the county recorder for recording. The county clerk shall retain the oath of office for one year following the expiration of the term of the commission for which the oath was taken, after which the oath may be destroyed or otherwise disposed of. The copy of the oath, personally signed by the notary public, on file with the Secretary of State may at any time be read in evidence with like effect as the original oath, without further proof.

(b) If a notary public transfers the principal place of business from one county to another, the notary public may file a new oath of office and bond, or a duplicate of the original bond with the county clerk to which the principal place of business was transferred. If the notary public elects to make a new filing, the notary public shall, within 30 days of the filing, obtain an official seal which shall include the name of the county to which the notary public has transferred. In a case where the notary public elects to make a new filing, the same filing and recording fees are applicable as in the case of the original filing and recording of the bond.

(c) If a notary public submits an application for a name change to the Secretary of State, the notary public shall, within 30 days from the date an amended commission is issued, file a new oath of office and an amendment to the bond with the county clerk in which the principal place of business is located. The amended commission with the name change shall not take effect unless the filing is completed within the 30-day period. The amended commission with the name change takes effect the date the oath and amendment to the bond is filed with the county clerk. If the principal place of business address was changed in the application for name change, either a new or duplicate of the original bond shall be filed with the county clerk with the amendment to the bond. The notary public shall, within 30 days of the filing, obtain an official seal that includes the name of the notary public and the name of the county to which the notary public has transferred, if applicable.

(d) The recording fee specified in Section 27361 of the Government Code shall be paid by the person appointed a notary public. The fee may be paid to the county clerk who shall transmit it to the county recorder.

(e) The county recorder shall record the bond and shall thereafter mail, unless

specified to the contrary, it to the person named in the instrument and, if no person is named, to the party leaving it for recording.

Enacted Stats 1943 ch 134. Amended Stats 1943 ch 1010 § 2; Stats 1953 ch 509 § 1; Stats 1957 ch 1336 § 1; Stats 1959 ch 1970 § 10; Stats 1968 ch 683 § 2; Stats 1971 ch 1460 § 2; Stats 1972 ch 58 § 1; Stats 1977 ch 1009 § 16; Stats 1981 ch 712 § 1; Stats 1982 ch 517 § 247, ch 1543 § 5; Stats 1988 ch 339 § 3; Stats 1995 ch 570 § 3 (SB 1121); Stats 1996 ch 97 § 2 (AB 3304); Stats 2016, ch. 366 § 6, effective January 1, 2017.

§ 8213.5. Change in location or address; notice

A notary public shall notify the Secretary of State by certified mail or any other means of physical delivery that provides a receipt within 30 days as to any change in the location or address of the principal place of business or residence. A notary public shall not use a commercial mail receiving agency or post office box as his or her principal place of business or residence, unless the notary public also provides the Secretary of State with a physical street address as the principal place of residence. Willful failure to notify the Secretary of State of a change of address shall be punishable as an infraction by a fine of not more than five hundred dollars (\$500).

Added Stats 1971 ch 1460 § 3. Amended Stats 1977 ch 1009 § 17; Stats 1995 ch 570 § 4 (SB 1121); Stats 2007 ch 399 § 9 (AB 886), effective January 1, 2008; Stats 2016, ch 366, § 7, effective January 1, 2017.

§ 8213.6. Name change

If a notary public changes his or her name, the notary public shall complete an application for name change form and file that application with the Secretary of State. Information on this form shall be subject to the confidentiality provisions described in Section 8201.5. Upon approval of the name change form, the Secretary of State shall issue a commission that reflects the new name of the notary public. The term of the commission and commission number shall remain the same. Willful failure to notify the Secretary of State of a name change shall be punishable as an infraction by a fine of not more than five hundred dollars (\$500).

Added Stats 1995 ch 570 § 5 (SB 1121). Amended Stats 2007 ch 399 § 10 (AB 886), effective January 1, 2008.

§ 8214. Misconduct or neglect

For the official misconduct or neglect of a notary public, the notary public and the sureties on the notary public's official bond are liable in a civil action to the persons injured thereby for all the damages sustained.

Enacted Stats 1943 ch 134. Amended Stats 1977 ch 1009 § 18; Stats 1982 ch 517 § 248.

§ 8214.1. Grounds for refusal, revocation or suspension of commission

The Secretary of State may refuse to appoint any person as notary public or may revoke or suspend the commission of any notary public upon any of the following grounds:

(a) Substantial and material misstatement or omission in the application submitted to the Secretary of State to become a notary public.

(b) Conviction of a felony, a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a notary public. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this subdivision.

(c) Revocation, suspension, restriction, or denial of a professional license, if the

revocation, suspension, restriction, or denial was for misconduct based on dishonesty, or for any cause substantially relating to the duties or responsibilities of a notary public.

(d) Failure to discharge fully and faithfully any of the duties or responsibilities required of a notary public.

(e) When adjudicated liable for damages in any suit grounded in fraud, misrepresentation, or for a violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties as a notary public.

(f) The use of false or misleading advertising wherein the notary public has represented that the notary public has duties, rights, or privileges that he or she does not possess by law.

(g) The practice of law in violation of Section 6125 of the Business and Professions Code.

(h) Charging more than the fees prescribed by this chapter.

(i) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or substantially injure another.

(j) Failure to complete the acknowledgment at the time the notary's signature and seal are affixed to the document.

(k) Failure to administer the oath or affirmation as required by paragraph (3) of subdivision (a) of Section 8205.

(l) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(m) Violation of Section 8223.

(n) Failure to submit any remittance payable upon demand by the Secretary of State under this chapter or failure to satisfy any court-ordered money judgment, including restitution.

(o) Failure to secure the sequential journal of official acts, pursuant to Section 8206, or the official seal, pursuant to Section 8207, or willful failure to report the theft or loss of the sequential journal, pursuant to subdivision (b) of Section 8206.

(p) Violation of Section 8219.5.

(q) Commission of an act in violation of Section 6203, 8214.2, 8225, or 8227.3 of the Government Code or of Section 115, 470, 487, subdivision (a) of Section 487a, or Section 530.5 of the Penal Code.

(r) Willful failure to provide access to the sequential journal of official acts upon request by a peace officer.

Added Stats 1961 ch 1470 § 2. Amended Stats 1967 ch 1139 § 5; Stats 1968 ch 683 § 3; Stats 1969 ch 78 § 1; Stats 1970 ch 600 § 1; Stats 1973 ch 439 § 2; Stats 1977 ch 1009 § 19; Stats 1995 ch 570 § 6 (SB 1121); Stats 1997 ch 319 § 6 (SB 618); Stats 1998 ch 879 § 28 (SB 2238); Stats 2007 ch 399 § 11 (AB 886), effective January 1, 2008; Stats 2013 ch 618 § 1 (AB 924), effective January 1, 2014.

§ 8214.15. Civil penalties

(a) In addition to any commissioning or disciplinary sanction, a violation of subdivision (f), (i), (l), (m), or (p) of Section 8214.1, or a willful violation of subdivision (d) of Section 8214.1, is punishable by a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(b) In addition to any commissioning or disciplinary sanction, a violation of subdivision (h), (j), or (k) of Section 8214.1, or a negligent violation of subdivision (d) of Section 8214.1 is punishable by a civil penalty not to exceed seven hundred fifty dollars (\$750).

(c) The civil penalty may be imposed by the Secretary of State if a hearing is not requested pursuant to Section 8214.3. If a hearing is requested, the hearing officer shall make the determination.

(d) Any civil penalties collected pursuant to this section shall be transferred to the General Fund. It is the intent of the Legislature that to the extent General Fund moneys are raised by penalties collected pursuant to this section, that money shall be made available to the Secretary of State's office to defray its costs of investigating and pursuing commissioning and monetary remedies for violations of the notary public law.

Added Stats 1993 ch 664 § 1 (AB 248). Amended Stats 1998 ch 879 § 29 (SB 2238); Stats 2007 ch 399 § 13 (AB 886), effective January 1, 2008; Stats 2014 ch 913 § 20 (AB 2747), effective January 1, 2015.

§ 8214.2. Fraud relating to deed of trust; single-family residence; felony

(a) A notary public who knowingly and willfully with intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the deed of trust contains any false statements or is forged in whole or in part, is guilty of a felony.

(b) The penalty provide by this section is not an exclusive remedy and does not affect any other relief provided by law.

Added Stats 1984 ch 1397 § 4. Amended Stats 2007 ch 399 § 12 (AB 886), effective January 1, 2008.

§ 8214.21. Failure to provide access to the sequential journal of notarial acts; civil penalties

A notary public who willfully fails to provide access to the sequential journal of notarial acts when requested by a peace officer shall be subject to a civil penalty not exceeding two thousand five hundred dollars (\$2,500). An action to impose a civil penalty under this subdivision may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this section.

Added Stats 2007 ch 399 § 14 (AB 886), effective January 1, 2008.

§8214.23. Failure to obtain thumbprint; civil penalties; limitations

(a) A notary public who fails to obtain a thumbprint, as required by Section 8206, from a party signing a document shall be subject to a civil penalty not exceeding two thousand five hundred dollars (\$2,500). An action to impose a civil penalty under this subdivision may be brought by the Secretary of State in an administrative proceeding or any public prosecutor in superior court, and shall be enforced as a civil judgment. A public prosecutor shall inform the secretary of any civil penalty imposed under this section.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

Added Stats 2007 ch 399 § 15 (AB 886), effective January 1, 2008.

§ 8214.3. Hearing prior to denial or revocation of commission or imposition of civil penalties; law governing; exceptions

Prior to a revocation or suspension pursuant to this chapter or after a denial of a commission, or prior to the imposition of a civil penalty, the person affected shall have a

right to a hearing on the matter and the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, except that a person shall not have a right to a hearing after a denial of an application for a notary public commission in either of the following cases:

(a) The Secretary of State has, within one year previous to the application, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, denied or revoked the applicant's application or commission.

(b) The Secretary of State has entered an order pursuant to Section 8214.4 finding that the applicant has committed or omitted acts constituting grounds for suspension or revocation of a notary public's commission.

Added Stats 1977 ch 1009 § 21. Amended Stats 1983 ch 142 § 30; Stats 1993 ch 664 § 2 (AB 248).

§ 8214.4. Resignation or expiration of commission not a bar to investigation or disciplinary proceedings

Notwithstanding this chapter or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, if the Secretary of State determines, after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3, that any notary public has committed or omitted acts constituting grounds for suspension or revocation of a notary public's commission, the resignation or expiration of the notary public's commission shall not bar the Secretary of State from instituting or continuing an investigation or instituting disciplinary proceedings. Upon completion of the disciplinary proceedings, the Secretary of State shall enter an order finding the facts and stating the conclusion that the facts would or would not have constituted grounds for suspension or revocation of the commission if the commission had still been in effect.

Added Stats 1977 ch 1009 § 22. Amended Stats 1983 ch 142 § 31.

§ 8214.5. Revocation of commission; filing copy with county clerk

Whenever the Secretary of State revokes the commission of any notary public, the Secretary of State shall file with the county clerk of the county in which the notary public's principal place of business is located a copy of the revocation. The county clerk shall note such revocation and its date upon the original record of such certificate.

Added Stats 1977 ch 1009 § 23.

§ 8214.8. Revocation upon certain convictions

Upon conviction of any offense in this chapter, or of Section 6203, or of any felony, of a person commissioned as a notary public, in addition to any other penalty, the court shall revoke the commission of the notary public, and shall require the notary public to surrender to the court the seal of the notary public. The court shall forward the seal, together with a certified copy of the judgment of conviction, to the Secretary of State.

Added Stats 2005 ch 295 § 2 (AB 361), effective January 1, 2006.

§ 8215. [Section repealed 1978.]

§ 8216. Release of surety

When a surety of a notary desires to be released from responsibility on account of future acts, the release shall be pursuant to Article 11 (commencing with Section 996.110), and not by cancellation or withdrawal pursuant to Article 13 (commencing with Section

996.310), of Chapter 2 of Title 14 of Part 2 of the Code of Civil Procedure. For this purpose the surety shall make application to the superior court of the county in which the notary public's principal place of business is located and the copy of the application and notice of hearing shall be served on the Secretary of State as the beneficiary.
Added Stats 1955 ch 780 § 1. Amended Stats 1959 ch 1970 § 11; Stats 1982 ch 517 § 249.

§ 8217. [Section repealed 1983.]

§ 8218. [Section repealed 1983.]

§ 8219.5. Advertising in language other than English; posting of notice relating to legal advice and fees; translation of notary public into Spanish; suspension

(a) Every notary public who is not an attorney who advertises the services of a notary public in a language other than English by signs or other means of written communication, with the exception of a single desk plaque, shall post with that advertisement a notice in English and in the other language which sets forth the following:

(1) This statement: I am not an attorney and, therefore, cannot give legal advice about immigration or any other legal matters.

(2) The fees set by statute which a notary public may charge.

(b) The notice required by subdivision (a) shall be printed and posted as prescribed by the Secretary of State.

(c) Literal translation of the phrase "notary public" into Spanish, hereby defined as "notario publico" or "notario," is prohibited. For purposes of this subdivision, "literal translation" of a word or phrase from one language to another means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language which is being translated.

(d) The Secretary of State shall suspend for a period of not less than one year or revoke the commission of any notary public who fails to comply with subdivision (a) or (c). However, on the second offense the commission of such notary public shall be revoked permanently.

Added Stats 1974 ch 245 § 1. Amended Stats 1976 ch 158 § 1, effective May 11, 1976; Stats 1993 ch 1044 § 3 (AB 1090); Stats 1998 ch 879 § 30 (SB 2238).

§ 8220. Rules and regulations

The Secretary of State may adopt rules and regulations to carry out the provisions of this chapter.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of this title.
Added Stats 1977 ch 1009 § 25. Amended Stats 2004 ch 183 § 137 (AB 3082).

§ 8221. Destruction, defacement or concealment of records or papers; misdemeanor; liability for damages

(a) If any person shall knowingly destroy, deface, or conceal any records or papers belonging to the office of a notary public, such person shall be guilty of a misdemeanor and be liable in a civil action for damages to any person injured as a result of such destruction, defacing, or concealment.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy and does not affect any other relief or remedy provided by law.

Added Stats 1977 ch 1009 § 26. Amended Stats 2007 ch 399 § 16 (AB 886), effective January 1, 2008.

§ 8222. Injunction; reimbursement for expenses

(a) Whenever it appears to the Secretary of State that any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter or any rule or regulation prescribed under the authority thereof, the Secretary of State may apply for an injunction, and upon a proper showing, any court of competent jurisdiction has power to issue a permanent or temporary injunction or restraining order to enforce the provisions of this chapter, and any party to the action has the right to prosecute an appeal from the order or judgment of the court.

(b) The court may order a person subject to an injunction or restraining order provided for in this section to reimburse the Secretary of State for expenses incurred in the investigation related to the petition. The Secretary of State shall refund any amount received as reimbursement should the injunction or restraining order be dissolved by an appellate court.

Added Stats 1977 ch 1009 § 27. Amended Stats 1982 ch 517 § 252.

§ 8223. Notary public with expertise in immigration matters; prohibition against advertising status as notary public; change in immigration status; fees

(a) A notary public who holds himself or herself out as being an immigration specialist, immigration consultant, or any other title or description reflecting an expertise in immigration matters shall not advertise in any manner whatsoever that he or she is a notary public.

(b) A notary public qualified and bonded as an immigration consultant under Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code may enter data, provided by the client, on immigration forms provided by a federal or state agency. The fee for this service shall not exceed fifteen dollars (\$15) per individual for each set of forms. If notary services are performed in relation to the set of immigration forms, additional fees may be collected pursuant to Section 8211. This fee limitation shall not apply to an attorney, who is also a notary public, who is rendering professional services regarding immigration matters.

(c) This section shall not be construed to exempt a notary public who enters data on an immigration form at the direction of a client, or otherwise performs the services of an immigration consultant, as defined by Section 22441 of the Business and Professions Code, from the requirements of Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code. A notary public who is not qualified and bonded as an immigration consultant under Chapter 19.5 (commencing with Section 22440) of Division 8 of the Business and Professions Code may not enter data provided by a client on immigration forms nor otherwise perform the services of an immigration consultant.

Added Stats 1977 ch 1009 § 28. Amended Stats 1983 ch 249 § 5; Stats 1998 ch 879 § 31; Stats 2000 ch 194

§ 2; Stats. 2016, ch. 133, § 2.

§ 8224. Conflict of interest; financial or beneficial interest in transaction; exceptions

A notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction.

For purposes of this section, a notary public has a direct financial or beneficial interest in a transaction if the notary public:

(a) With respect to a financial transaction, is named, individually, as a principal to the transaction.

(b) With respect to real property, is named, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, or lessee, to the transaction.

For purposes of this section, a notary public has no direct financial or beneficial interest in a transaction where the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow, or lender for a person having a direct financial or beneficial interest in the transaction.

Added Stats 1977 ch 1009 § 29.

§ 8224.1. Writings, depositions or affidavits of notary public; prohibitions against proof or taking by that notary public

A notary public shall not take the acknowledgment or proof of instruments of writing executed by the notary public nor shall depositions or affidavits of the notary public be taken by the notary public.

Added Stats 1977 ch 1009 § 30.

§ 8225. Improper notarial acts, solicitation, coercion or influence of performance; misdemeanor

(a) Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing that act to be an improper notarial act, including any act required of a notary public under Section 8206, shall be guilty of a misdemeanor.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

Added Stats 1977 ch 1009 § 31. Amended Stats 2005 ch 295 § 3 (AB 361), effective January 1, 2006; Stats 2007 ch 399 § 17 (AB 886), effective January 1, 2008.

§§ 8226, 8227. [Sections repealed 1971.]

§ 8227.1. Unlawful acts by one not a notary public; misdemeanor

It shall be a misdemeanor for any person who is not a duly commissioned, qualified, and acting notary public for the State of California to do any of the following:

(a) Represent or hold himself or herself out to the public or to any person as being entitled to act as a notary public.

(b) Assume, use or advertise the title of notary public in such a manner as to convey the impression that the person is a notary public.

(c) Purport to act as a notary public.

Added Stats 1977 ch 1009 § 32.

§ 8227.3. Unlawful acts by one not a notary public; deeds of trust on single-family residences; felony

Any person who is not a duly commissioned, qualified, and acting notary public who does any of the acts prohibited by Section 8227.1 in relation to any document or instrument affecting title to, placing an encumbrance on, or placing an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, is guilty of a felony.

Added Stats 1984 ch 1397 § 5.

§ 8228. Enforcement of chapter; examination of notarial books, records, etc.

The Secretary of State or a peace officer, as defined in Sections 830.1, 830.2, and 830.3 of the Penal Code, possessing reasonable suspicion and acting in his or her official capacity and within his or her authority, may enforce the provisions of this chapter through the examination of a notary public's books, records, letters, contracts, and other pertinent documents relating to the official acts of the notary public.

Added Stats 1977 ch 1009 § 33. Amended Stats 2007 ch 399 § 18 (AB 886), effective January 1, 2008.

8228.1. Willful failure to perform duty or control notarial seal

(a) Any notary public who willfully fails to perform any duty required of a notary public under Section 8206, or who willfully fails to keep the seal of the notary public under the direct and exclusive control of the notary public, or who surrenders the seal of the notary public to any person not otherwise authorized by law to possess the seal of the notary, shall be guilty of a misdemeanor.

(b) Notwithstanding any other limitation of time described in Section 802 of the Penal Code or any other provision of law, prosecution for a violation of this offense shall be commenced within four years after discovery of the commission of the offense, or within four years after the completion of the offense, whichever is later.

(c) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

Added Stats 2005 ch 295 § 4 (AB 361), effective January 1, 2006. Amended Stats 2007 ch 399 § 19 (AB 886), effective January 1, 2008.

§ 8229. [Section repealed 1971.]

§ 8230. Identification of affiant; verification

If a notary public executes a jurat and the statement sworn or subscribed to is contained in a document purporting to identify the affiant, and includes the birthdate or age of the person and a purported photograph or finger or thumbprint of the person so swearing or subscribing, the notary public shall require, as a condition to executing the jurat, that the person verify the birthdate or age contained in the statement by showing either:

(a) A certified copy of the person's birth certificate, or

(b) An identification card or driver's license issued by the Department of Motor

Vehicles.

For the purposes of preparing for submission of forms required by the United States Immigration and Naturalization Service, and only for such purposes, a notary public may also accept for identification any documents or declarations acceptable to the United States Immigration and Naturalization Service.

Added Stats 1977 ch 1009 § 34.

TITLE 3. GOVERNMENT OF COUNTIES
DIVISION 2. OFFICERS
PART 3. OTHER OFFICERS
CHAPTER 6. RECORDER
ARTICLE 1. DUTIES GENERALLY

§ 27201.5

(a) A notary acknowledgment shall be deemed complete for recording purposes without a photographically reproducible official seal of the notary public if the seal, as described in Section 8207, is present and legible, and the name of the notary, the county of the notary's principal place of business, the notary's telephone number, the notary's registration number, and the notary's commission expiration date are typed or printed in a manner that is photographically reproducible below, or immediately adjacent to, the notary's signature in the acknowledgment.

(b) If a request for a certified copy of a birth or death record is received by mail, a notarized statement sworn under penalty of perjury shall accompany the request, stating that the requester is an authorized person, as defined by law.

Added Stats 2004 ch 6 § 2 (AB 1179), effective January 22, 2004.

ARTICLE 3. DOCUMENTS TO BE RECORDED

§ 27287.

Unless it belongs to the class provided for in either Sections 27282 to 27286, inclusive, or Section 1202 or 1203, of the Civil Code, or is a fictitious mortgage or deed of trust as provided in Section 2952 or 2963 of the Civil Code, or is a fictitious oil and gas lease as provided in Section 1219 of the Civil Code, or is a claim of lien under Section 8416 of the Civil Code or a notice of completion under Section 8182 or 9204 of the Civil Code, before an instrument can be recorded its execution shall be acknowledged by the person executing it, or if executed by a corporation, by its president or secretary or other person executing it on behalf of the corporation, or, except for any power of attorney, quitclaim deed, grant deed, mortgage, deed of trust, security agreement, or other document affecting real property, proved by subscribing witness or as provided in Sections 1198 and 1199 of the Civil Code, and the acknowledgment or proof certified as prescribed by law. This section shall not apply to a trustee's deed resulting from a decree of foreclosure, or a nonjudicial foreclosure pursuant to Section 2924 of the Civil Code, or to a deed of reconveyance.

Added Stats 1947 ch 424 § 1. Amended Stats 1947 ch 1497 § 2; Stats 1951 ch 512 § 1; Stats 1955 ch 1541 § 2; Stats 1981 ch 321 § 3; Stats 1993 ch 282 § 1 (AB 1195); Stats 1994 ch 587 § 10 (AB 3600); Stats 1997 ch 319 § 7 (SB 618); Stats 2010 ch 697 § 33 (SB 189), effective January 1, 2011, operative July 1, 2012; Stats 2011 ch 269 § 10 (AB 75), effective January 1, 2012; Stats 2012 ch 202 § 3 (AB 2326), effective January 1, 2013.

Revised 1/03/2017

ARTICLE 5. FEES

§ 27361.

(a) The fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded shall not exceed ten dollars (\$10) for recording the first page and three dollars (\$3) for each additional page, to reimburse the county for the costs of services rendered pursuant to this subdivision, except the recorder may charge additional fees as follows:

(1) If the printing on printed forms is spaced more than nine lines per vertical inch or more than 22 characters and spaces per inch measured horizontally for not less than three inches in one sentence, the recorder shall charge one dollar (\$1) extra for each page or sheet on which printing appears, except, however, the extra charge shall not apply to printed words which are directive or explanatory in nature for completion of the form or on vital statistics forms. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(2) If a page or sheet does not conform with the dimensions described in subdivision (a) of Section 27361.5, the recorder shall charge three dollars (\$3) extra per page or sheet of the document. The funds generated by the extra charge authorized under this paragraph shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents. Fees collected under this paragraph are not subject to subdivision (b) or (c).

(b) One dollar (\$1) of each three dollar (\$3) fee for each additional page shall be deposited in the county general fund.

(c) Notwithstanding Section 68085, one dollar (\$1) for recording the first page and one dollar (\$1) for each additional page shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

Added Stats 1947 ch 424 § 1. Amended Stats 1955 ch 542 § 1, operative January 1, 1956; Stats 1957 ch 954 § 2, effective June 8, 1957; Stats 1971 ch 59 § 1; Stats 1984 ch 1156 § 1; Stats 1988 ch 344 § 1; Stats 1991 ch 331 § 2 (SB 21), effective August 5, 1991, ch 1168 § 2.5 (AB 2142), effective October 14, 1991; Stats 1992 ch 87 § 4 (AB 689), operative July 1, 1994; Stats 1997 ch 850 § 26 (AB 233); Stats 1998 ch 146 § 3 (AB 1301), effective July 13, 1998; Stats 2007 ch 627 § 9 (AB 1168), effective January 1, 2008; Stats 2008 ch 179 § 102 (SB 1498), effective January 1, 2009; Stats 2009 ch 606 § 2 (SB 676), effective January 1, 2010.

§ 27361.5.

(a) As used in Section 27361, a page shall be one printed side of a single piece of paper being 8½ inches by 11 inches.

(b) A sheet shall be one printed side of a single piece of paper which is not exactly 8½ inches by 11 inches but not greater than 8½ inches by 14 inches.

Added Stats 1992 ch 87 § 6 (AB 689), operative July 1, 1994.

§ 27361.7.

Whenever the text of a document presented for record may be made out but is not sufficiently legible to reproduce a readable photographic record, the recorder may require the person presenting it for record to substitute a legible original document or to prepare a

legible copy of the first document by handwriting or typewriting and attach the same to the original as a part of the document for making the permanent photographic record. The handwritten or typewritten legible copy shall be certified by the party creating the copy under penalty of perjury as being a true copy of the original. As used in this section, the word "text" includes the notary seal, certificates, and other appendages thereto.
Added Stats 1963 ch 22 § 2. Amended Stats 1975 ch 252 § 1; Stats 1981 ch 187 § 1.

TITLE 3. GOVERNMENT OF COUNTIES
DIVISION 2. OFFICERS
PART 3. OTHER OFFICERS
CHAPTER 6. RECORDER
ARTICLE 6. ELECTRONIC RECORDING DELIVERY ACT OF 2004

§ 27390. Citation of Article; Definitions

(a) This article shall be known and may be cited as the Electronic Recording Delivery Act of 2004.

(b) For the purposes of this article, the following definitions shall apply:

(1) "Authorized submitter" means a party that has entered into a contract with a county recorder pursuant to subdivision (b) of Section 27391 and is not disqualified pursuant to Section 27395.

(2) "Computer security auditor" means computer security personnel hired to perform an independent audit of the electronic recording delivery system. The computer security auditor shall be independent of the county recorder and the authorized submitter and shall not be the same contractor hired to establish or participate in a county's electronic recording delivery system or in the authorized submitter's portion of that system.

(3) "Digital electronic record" means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means, but not created in original paper form.

(4) "Digitized electronic record" means a scanned image of the original paper document.

(5) "Electronic recording delivery system" means a system to deliver for recording, and to return to the party requesting recording, digitized or digital electronic records.

(6) "Security testing" means an independent security audit by a computer security auditor, including, but not limited to, attempts to penetrate an electronic recording delivery system for the purpose of testing the security of that system.

(7) "Source code" means a program or set of programs, readable and maintainable by humans, translated or interpreted into a form that the electronic recording delivery system can execute.

(8) "System certification" means the issuance of a confirmation letter regarding a county's electronic recording delivery system by the Attorney General.

(Added by Stats. 2004, c. 621, § 2, eff. Sept. 21, 2004.)

§ 27391. Authority to establish electronic recording delivery system and enter into contracts

(a) Upon approval by resolution of the board of supervisors and system certification by the Attorney General, a county recorder may establish an electronic recording delivery system.

(b) Upon system certification, a county recorder may enter into a contract with a title insurer as defined in Section 12340.4 of the Insurance Code, underwritten title company as defined in Section 12340.5 of the Insurance Code, institutional lender as defined in paragraph (1), (2), or (4) of subdivision (j) of Section 50003 of the Financial Code, or an entity of local, state, or federal government for the delivery for recording, and return to the party requesting recording, of a digitized electronic record that is an instrument affecting a right, title, or interest in real property. The contract may provide for the delivery of documents by an agent. However, the agent shall not be a vendor of electronic recording delivery systems.

(c) A county recorder may refuse to enter into a contract with any party or may terminate or suspend access to a system for any good faith reason, including, but not limited to, a determination by the county recorder that termination or suspension is necessary to protect the public interest, to protect the integrity of public records, or to protect homeowners from financial harm, or if the volume or quality of instruments submitted by the requester is not sufficient to warrant electronic recordation. A county recorder may also terminate or suspend access to a system if a party commits a substantive breach of the contract, the requirements of this article, or the regulations adopted pursuant to this article.

(d) Notwithstanding Section 27321, a county recorder may require a party electronically submitting records to mail a copy of the recorded electronic document to the address specified in the instructions for mailing upon completion of recording.

(e) When a signature is required to be accompanied by a notary's seal or stamp, that requirement is satisfied if the electronic signature of the notary contains all of the following:

(1) The name of the notary.

(2) The words "Notary Public."

(3) The name of the county where the bond and oath of office of the notary are filed.

(4) The sequential identification number assigned to the notary, if any.

(5) The sequential identification number assigned to the manufacturer or vendor of the notary's physical or electronic seal, if any.

(f) This section shall become operative on January 1, 2027.

Added Stats 2004 ch 621 § 2 (AB 578), effective September 21, 2004; Amended by Stats. 2016, Ch. 380, Sec. 3. Effective January 1, 2017. Repealed as of January 1, 2027, by its own provisions. See later operative version added by Sec. 4 of Stats. 2016, Ch. 380.

§ 27391. Authority to establish electronic recording delivery system and enter into contracts

(a) Upon approval by resolution of the board of supervisors and system certification by the Attorney General, a county recorder may establish an electronic recording delivery system.

(b) Upon system certification, a county recorder may enter into a contract with a title insurer as defined in Section 12340.4 of the Insurance Code, underwritten title company as defined in Section 12340.5 of the Insurance Code, institutional lender as defined in paragraph (1), (2), or (4) of subdivision (j) of Section 50003 of the Financial Code, or an entity of local, state, or federal government for the delivery for recording, and return to the party requesting recording, of a digitized electronic record that is an instrument affecting a right, title, or interest in real property. The contract may provide for the

delivery of documents by an agent. However, the agent shall not be a vendor of electronic recording delivery systems.

(c) A county recorder may refuse to enter into a contract with any party or may terminate or suspend access to a system for any good faith reason, including, but not limited to, a determination by the county recorder that termination or suspension is necessary to protect the public interest, to protect the integrity of public records, or to protect homeowners from financial harm, or if the volume or quality of instruments submitted by the requester is not sufficient to warrant electronic recordation. A county recorder may also terminate or suspend access to a system if a party commits a substantive breach of the contract, the requirements of this article, or the regulations adopted pursuant to this article.

(d) Notwithstanding Section 27321, a county recorder may require a party electronically submitting records to mail a copy of the recorded electronic document to the address specified in the instructions for mailing upon completion of recording.

(e) When a signature is required to be accompanied by a notary's seal or stamp, that requirement is satisfied if the electronic signature of the notary contains all of the following:

- (1) The name of the notary.
- (2) The words "Notary Public."
- (3) The name of the county where the bond and oath of office of the notary are filed.
- (4) The sequential identification number assigned to the notary, if any.
- (5) The sequential identification number assigned to the manufacturer or vendor of the notary's physical or electronic seal, if any.

(f) This section shall become operative on January 1, 2027.

(Repealed (in Sec. 3) and added by Stats. 2016, Ch. 380, Sec. 4. Effective January 1, 2017. Section operative January 1, 2027, by its own provisions.)

§ 27397.5. Contracting to be authorized submitter of records; Certification requirements

(a) A county recorder may include in the county's electronic recording delivery system a secure method for accepting for recording a digital or digitized electronic record that is an instrument of reconveyance, substitution of trustee, or assignment of deed of trust.

Added Stats 2004 ch 621 § 2 (AB 578), effective September 21, 2004.

TITLE 7. PLANNING AND LAND USE DIVISION 2. SUBDIVISIONS CHAPTER 2. MAPS ARTICLE 2. FINAL MAPS

§ 66436. Statement of consent to map; Exceptions

(a) A statement, signed and acknowledged by all parties having any record title interest in the subdivided real property, consenting to the preparation and recordation of the final map is required, ***

(c) A notary acknowledgment shall be deemed complete for recording without the official seal of the notary, so long as the name of the notary, the county of the notary's

principal place of business, and the notary's commission expiration date are typed or printed below or immediately adjacent to the notary's signature in the acknowledgment. Added Stats 1974 ch 1536 § 4, operative March 1, 1975. Amended Stats 1976 ch 1081 § 9; Stats 1977 ch 234 § 7, effective July 7, 1977; Stats 1982 ch 87 § 12, effective March 1, 1982; Stats 1985 ch 1504 § 4; Stats 1986 ch 789 § 1; Stats 1987 ch 982 § 4; Stats 1988 ch 100 § 2; Stats 1989 ch 847 § 5.

PENAL CODE PRELIMINARY PROVISIONS

§ 17. Felony; misdemeanor; infraction; classification of offenses

(a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

Enacted 1872. Amended Code Amdts 1873-74 ch 196 § 1; Stats 1947 ch 826 § 1; Stats 1957 ch 1012 § 1; Stats 1959 ch 532 § 1; Stats 1963 ch 919 § 1; Stats 1968 ch 1192 § 2, operative January 1, 1969; Stats 1969 ch 1144 § 1; Stats 1975 ch 664 § 1; Stats 1976 ch 1070 § 1, effective September 21, 1976; Stats 1980 ch 1270 § 1; Stats 1989 ch 897 § 5; Stats 1998 ch 960 § 1 (AB 2680); Stats 2011 ch 15 § 228 (AB 109), effective April 4, 2011, operative October 1, 2011; Stats 2011-2012 1st Ex Sess ch 12 § 6 (ABX1 17), effective September 21, 2011, operative October 1, 2011.

PART 1. OF CRIMES AND PUNISHMENTS TITLE 7. OF CRIMES AGAINST PUBLIC JUSTICE CHAPTER 4. FORGING, STEALING, MUTILATING, AND FALSIFYING JUDICIAL AND PUBLIC RECORDS AND DOCUMENTS

§ 115. Offering false or forged instruments for filing

(a) Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.

(b) Each instrument which is procured or offered to be filed, registered, or recorded in violation of subdivision (a) shall constitute a separate violation of this section.

(c) Except in unusual cases where the interests of justice would best be served if probation is granted, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person with a prior conviction under this section who is again convicted of a violation of this section in a separate proceeding.

(2) Any person who is convicted of more than one violation of this section in a single proceeding, with intent to defraud another, and where the violations resulted in a cumulative financial loss exceeding one hundred thousand dollars (\$100,000).

(d) For purposes of prosecution under this section, each act of procurement or of offering a false or forged instrument to be filed, registered, or recorded shall be considered a separately punishable offense.

Enacted 1872. Amended Stats 1984 ch 593 § 1, ch 1397 § 8; Stats 1985 ch 106 § 106; Stats 2014 ch 455 § 1 (AB 1698), effective January 1, 2015.

§ 115.5. Filing false or forged documents relating to single-family residences; punishment; false statement to notary public

(a) Every person who files any false or forged document or instrument with the county recorder which affects title to, places an encumbrance on, or places an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence containing not more than four dwelling units, with knowledge that the document is false or forged, is punishable, in addition to any other punishment, by a fine not exceeding seventy-five thousand dollars (\$75,000).

(b) Every person who makes a false sworn statement to a notary public, with knowledge that the statement is false, to induce the notary public to perform an improper notarial act on an instrument or document affecting title to, or placing an encumbrance on, real property consisting of a single-family residence containing not more than four dwelling units is guilty of a felony.

Added Stats 1984 ch 1397 § 9.

CHAPTER 5. PERJURY AND SUBORNATION OF PERJURY

§ 118. Perjury defined; evidence necessary to support conviction

(a) Every person who, having taken an oath that he or she will testify, declare, depose, or certify truly before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which he or she knows to be false, and every person who testifies, declares, deposes, or certifies under penalty of perjury in any of the cases in which the testimony, declarations, depositions, or certification is permitted by law of the State of California under penalty of perjury and willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

This subdivision is applicable whether the statement, or the testimony, declaration, deposition, or certification is made or subscribed within or without the State of California.

(b) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.

Enacted 1872. Amended Stats 1955 ch 873 § 2; Stats 1957 ch 1612 § 2; Stats 1980 ch 889 § 3; Stats 1989 ch 897 § 13; Stats 1990 ch 950 § 2 (SB 2681).

§ 126. Punishment

Perjury is punishable by imprisonment in the state prison for two, three or four years.

Enacted 1872. Amended Stats 1976 ch 1139 § 118, operative July 1, 1977; Stats 2011 ch 15 § 249 (AB 109), effective April 4, 2011, operative October 1, 2011.

**TITLE 13. OF CRIMES AGAINST PROPERTY
CHAPTER 4. FORGERY AND COUNTERFEITING**

§ 470. Forgery; signatures or seals; corruption of records

(a) Every person who, with the intent to defraud, knowing that he or she has no authority to do so, signs the name of another person or of a fictitious person to any of the items listed in subdivision (d) is guilty of forgery.

(b) Every person who, with the intent to defraud, counterfeits or forges the seal or

handwriting of another is guilty of forgery.

(c) Every person who, with the intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery.

(d) Every person who, with the intent to defraud, falsely makes, alters, forges, or counterfeits, utters, publishes, passes or attempts or offers to pass, as true and genuine, any of the following items, knowing the same to be false, altered, forged, or counterfeited, is guilty of forgery: any check, bond, bank bill, or note, cashier's check, traveler's check, money order, post note, draft, any controller's warrant for the payment of money at the treasury, county order or warrant, or request for the payment of money, receipt for money or goods, bill of exchange, promissory note, order, or any assignment of any bond, writing obligatory, or other contract for money or other property, contract, due bill for payment of money or property, receipt for money or property, passage ticket, lottery ticket or share purporting to be issued under the California State Lottery Act of 1984, trading stamp, power of attorney, certificate of ownership or other document evidencing ownership of a vehicle or undocumented vessel, or any certificate of any share, right, or interest in the stock of any corporation or association, or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing, or acquittance, release or discharge of any debt, account, suit, action, demand, or any other thing, real or personal, or any transfer or assurance of money, certificate of shares of stock, goods, chattels, or other property whatever, or any letter of attorney, or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands, or tenements, or other estate, real or personal, or falsifies the acknowledgment of any notary public, or any notary public who issues an acknowledgment knowing it to be false; or any matter described in subdivision (b).

(e) Upon a trial for forging any bill or note purporting to be the bill or note of an incorporated company or bank, or for passing, or attempting to pass, or having in possession with intent to pass, any forged bill or note, it is not necessary to prove the incorporation of the bank or company by the charter or act of incorporation, but it may be proved by general reputation; and persons of skill are competent witnesses to prove that the bill or note is forged or counterfeited.

Added Stats 1998 ch 468 § 2 (AB 2008). Amended Stats 2005 ch 295 § 5 (AB 361), effective January 1, 2006.

CHAPTER 5. LARCENY

§ 487. Grand theft

Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars (\$950), except as provided in subdivision (b).

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1)(A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars (\$250).

(B) For the purposes of establishing that the value of domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops under this paragraph exceeds two hundred fifty dollars (\$250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops of the same variety and weight exceeded two hundred fifty dollars (\$250) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars (\$250).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars (\$950) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is any of the following:

(1) An automobile, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

(2) A firearm.

Added Stats 1993 ch 1125 § 5 (AB 1630), effective October 10, 1993, operative January 1, 1997. Amended Stats 2002 ch 787 § 12 (SB 1798); Stats 2009-2010 3d Ex Sess ch 28 § 17 (SB 18XXX), effective January 25, 2010; Stats 2010 ch 693 § 1 (AB 2372), effective January 1, 2011, ch 694 § 1.5 (SB 1338), effective January 1, 2011; Stats 2013 ch 618 § 7 (AB 924), effective January 1, 2014.

§ 487a. Stealing livestock; Stealing livestock carcass

(a) Every person who shall feloniously steal, take, transport or carry the carcass of any bovine, caprine, equine, ovine, or suine animal or of any mule, jack or jenny, which is the personal property of another, or who shall fraudulently appropriate such property which has been entrusted to him, is guilty of grand theft.

(b) Every person who shall feloniously steal, take, transport, or carry any portion of the carcass of any bovine, caprine, equine, ovine, or suine animal or of any mule, jack, or jenny, which has been killed without the consent of the owner thereof, is guilty of grand theft.

Added Stats 1943 ch 904 § 1. Amended Stats 1953 ch 1547 § 1; Stats 2013 ch 618 § 8 (AB 924), effective January 1, 2014; Stats 2014 ch 71 § 122 (SB 1304), effective January 1, 2015.

CHAPTER 8. FALSE PERSONATION AND CHEATS

§ 530. Receiving money or property as result of false personation

Every person who falsely personates another, in either his private or official capacity, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person, or to deprive the true owner thereof, is punishable in the same manner and to the same extent as for larceny of the money or property so received.

Enacted Stats 1872. Amended Stats 1905 ch 523 § 2.

530.5 Unauthorized use of personal identifying information; Mail theft

(a) Every person who willfully obtains personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real

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property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(b) In any case in which a person willfully obtains personal identifying information of another person, uses that information to commit a crime in addition to a violation of subdivision (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did not commit the crime.

(c) (1) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment.

(2) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person, and who has previously been convicted of a violation of this section, upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(3) Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of 10 or more other persons is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) (1) Every person who, with the intent to defraud, sells, transfers, or conveys the personal identifying information, as defined in subdivision (b) of Section 530.55, of another person is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170.

(2) Every person who, with actual knowledge that the personal identifying information, as defined in subdivision (b) of Section 530.55, of a specific person will be used to commit a violation of subdivision (a), sells, transfers, or conveys that same personal identifying information is guilty of a public offense, and upon conviction therefor, shall be punished by a fine, by imprisonment pursuant to subdivision (h) of Section 1170, or by both a fine and imprisonment.

(e) Every person who commits mail theft, as defined in Section 1708 of Title 18 of the United States Code, is guilty of a public offense, and upon conviction therefor shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment. Prosecution under this subdivision shall not limit or preclude prosecution under any other provision of law, including, but not limited to, subdivisions (a) to (c), inclusive, of this section.

(f) An interactive computer service or access software provider, as defined in subsection (f) of Section 230 of Title 47 of the United States Code, shall not be liable under this section unless the service or provider acquires, transfers, sells, conveys, or retains possession of personal information with the intent to defraud.

Added Stats 1997 ch 768 § 6 (AB 156). Amended Stats 1998 ch 488 § 1 (SB 1374); Stats 2000 ch 956 § 1 (AB 1897); Stats 2001 ch 478 § 1 (AB 245); Stats 2002 ch 254 § 1 (SB 1254); Stats 2005 ch 432 § 1 (AB

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1566), effective January 1, 2006; Stats 2006 ch 10 § 1 (AB 424), effective February 25, 2006, ch 522 § 2 (AB 2886), effective January 1, 2007; Stats 2007 ch 302 § 10 (SB 425), effective January 1, 2008; Stats 2011 ch 15 § 383 (AB 109), effective April 4, 2011, operative October 1, 2011.

PROBATE CODE
DIVISION 4.5. POWERS OF ATTORNEY
PART 2. POWERS OF ATTORNEY GENERALLY
CHAPTER 2. CREATION AND EFFECT OF POWERS OF ATTORNEY

§ 4121. Requirements for legal sufficiency of power of attorney

A power of attorney is legally sufficient if all of the following requirements are satisfied:

- (a) The power of attorney contains the date of its execution.
- (b) The power of attorney is signed either
 - (1) by the principal or
 - (2) in the principal's name by another adult in the principal's presence and at the principal's direction.
- (c) The power of attorney is either
 - (1) acknowledged before a notary public or
 - (2) signed by at least two witnesses who satisfy the requirements of Section 4122.

Added Stats 1994 ch 307 § 16 (SB 1907). Amended Stats 1999 ch 658 § 29 (AB 891), operative July 1, 2000.

CHAPTER 5. RELATIONS WITH THIRD PERSONS

§ 4307. Certified copy of power of attorney

- (a) A copy of a power of attorney certified under this section has the same force and effect as the original power of attorney.
- (b) A copy of a power of attorney may be certified by any of the following:
 - (1) An attorney authorized to practice law in this state.
 - (2) A notary public in this state.
 - (3) An official of a state or of a political subdivision who is authorized to make certifications.
- (c) The certification shall state that the certifying person has examined the original power of attorney and the copy and that the copy is a true and correct copy of the original power of attorney.
- (d) Nothing in this section is intended to create an implication that a third person may be liable for acting in good faith reliance on a copy of a power of attorney that has not been certified under this section.

Added Stats 1994 ch 307 § 16 (SB 1907). Amended Stats 1995 ch 300 § 9 (SB 984), effective August 3, 1995.

DIVISION 4.7. HEALTH CARE DECISIONS
PART 2. UNIFORM HEALTH CARE DECISIONS ACT
CHAPTER 1. ADVANCE CARE DIRECTIVES
ARTICLE 1. GENERAL PROVISIONS

§ 4673. Sufficiency of directive

- (a) A written advance health care directive is legally sufficient if all of the following requirements are satisfied:

(1) The advance directive contains the date of its execution.

(2) The advance directive is signed either by the patient or in the patient's name by another adult in the patient's presence and at the patient's direction.

(3) The advance directive is either acknowledged before a notary public or signed by at least two witnesses who satisfy the requirements of Sections 4674 and 4675.

(b) An electronic advance health care directive or power of attorney for health care is legally sufficient if the requirements in subdivision (a) are satisfied, except that for the purposes of paragraph (3) of subdivision (a), an acknowledgment before a notary public shall be required, and if a digital signature is used, it meets all of the following requirements:

(1) The digital signature either meets the requirements of Section 16.5 of the Government Code and Chapter 10 (commencing with Section 22000) of Division 7 of Title 2 of the California Code of Regulations or the digital signature uses an algorithm approved by the National Institute of Standards and Technology.

(2) The digital signature is unique to the person using it.

(3) The digital signature is capable of verification.

(4) The digital signature is under the sole control of the person using it.

(5) The digital signature is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(6) The digital signature persists with the document and not by association in separate files.

(7) The digital signature is bound to a digital certificate.

Added Stats 1999 ch 658 § 39 (AB 891), operative July 1, 2000. Amended Stats 2006 ch 579 § 1 (AB 2805), effective September 28, 2006.

**UNIFORM COMMERCIAL CODE
DIVISION 3. NEGOTIABLE INSTRUMENTS
CHAPTER 5. DISHONOR**

§ 3505. Protest; Noting for Protest

(a) The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor stated:

(1) A document regular in form as provided in subdivision (b) which purports to be a protest.

(2) A purported stamp or writing of the drawee, payor bank, or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor.

(3) A book or record of the drawee, payor bank, or collecting bank, kept in the usual course of business that shows dishonor, even if there is no evidence of who made the entry.

(b) A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public during the course and scope of employment with a financial institution or other person authorized to administer oaths by the laws of any other state, government, or country in the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest shall identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

Added Stats 1992 ch 914 § 6 (SB 833). Amended Stats 2011 ch 269 § 4 (AB 75), effective January 1, 2012.

CALIFORNIA CODE OF REGULATIONS

TITLE 2. ADMINISTRATION DIVISION 7. SECRETARY OF STATE CHAPTER 8. NOTARY PUBLIC

§ 20800. Notary Public Education and Certificate of Approval.

(a) Prior to offering any course of study pursuant to paragraph (3) of subdivision (a) or paragraph (2) of subdivision (b) of Section 8201 of the Government Code, a vendor shall obtain a certificate of approval from the Secretary of State for each course of study offered.

(b) To apply for a certificate of approval, a vendor shall submit to the Secretary of State for approval a completed Notary Public Education Vendor Application or Amendment, form NP40 (03/05), hereby incorporated by reference, and a lesson plan satisfying the requirements in Section 20800.1.

(c) The Secretary of State shall issue a certificate of approval in accordance with subdivision (d) or deficiency notice in accordance with Section 20800.2 within ninety (90) business days of receipt of an application and lesson plan.

(d) Upon approval of an application and lesson plan, the Secretary of State shall send a certificate of approval for the course of study as identified in the lesson plan to the vendor by first class mail to the address listed on the Notary Public Education Vendor Application or Amendment, form NP40 (03/05). The certificate of approval shall include the following: the name of the approved vendor as listed on the Notary Public Education Vendor Application or Amendment, form NP40 (03/05); the address listed on the Notary Public Education Vendor Application or Amendment, form NP40 (03/05); the vendor identification number issued by the Secretary of State; and the date on which the course of study was approved by the Secretary of State. A certificate of approval is non-transferable and shall not be transferred to another vendor or another course of study.

(e) An approved vendor shall not alter or substitute the lesson plan reviewed and approved by the Secretary of State, unless such revisions are approved by the Secretary of State in accordance with Section 20800.4.

(f) For the purposes of this chapter, an approved vendor shall be responsible for all employees, agents, instructors, contractors, and subcontractors providing an approved course of study on behalf of the approved vendor and the acts of the employees, agents, instructors, contractors, and subcontractors shall be deemed the acts of the approved vendor.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.1. Lesson Plan.

A lesson plan shall meet the following requirements:

(a) The lesson plan shall be based on the laws of California concerning the functions and duties of a notary public.

(b) The lesson plan shall contain a table of contents and the pages of the lesson plan shall be consecutively numbered.

(c) The lesson plan shall be in sufficient detail to enable the Secretary of State to evaluate the specific information to be presented and to determine the accuracy of the

information to be presented.

(d) The lesson plan shall contain the procedures to establish the identity of a person attending a course of study to whom proof of completion may be issued in accordance with Section 20800.5 and ensure that the information contained in the certificate of completion pursuant to subdivision (c) of Section 20800.5 cannot be viewed by any person other than the approved vendor issuing the certificate, an employee, agent, instructor, contractor, or subcontractor of the approved vendor issuing the certificate, or the notary public applicant or notary public named in the certificate.

(e) The lesson plan shall contain the procedures to ensure that a person attending a course of study is present for the required time.

(f) The lesson plan shall include a schedule of the time allotted for the following: 1. Lunch and break periods; 2. Each major subject area; 3. Each audio visual aid to be used, if any; 4. Each student participation activity, if any; and 5. Completion, correction, and discussion of any tests used and the method of correction to be used, if any.

(g) The lesson plan shall reflect where visual aids and student participation will be used to supplement lecture material. It shall explain the purpose of visual aids and student participation activity and describe how the instructor will generate the intended student participation. It shall include a brief synopsis of the information presented in any movie or video presentation, sufficient to enable the Secretary of State to determine what specific information is presented by the movie or video.

(h) Copies of any handout materials, workbooks, or tests used during the course of study shall be submitted for approval as part of the lesson plan.

(i) If the course provides for an evaluation by the students, a sample of the evaluation form shall be submitted with the lesson plan. Completion of the evaluation shall not exceed ten (10) minutes of class time.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.2. Deficient Application or Lesson Plan.

(a) If the Secretary of State determines that a Notary Public Education Vendor Application or Amendment, form NP40 (03/05), is incomplete or a lesson plan does not satisfy the requirements of Section 8201 or 8201.2 of the Government Code or this chapter, the Secretary of State shall issue a deficiency notice containing an itemized description of the deficiencies identified. The deficiency notice shall be sent by the Secretary of State to the vendor by first class mail to the address listed on the Notary Public Education Vendor Application or Amendment, form NP40 (03/05). The Secretary of State shall use his or her discretion in determining whether or not to return the lesson plan with the deficiency notice. The decision shall be based on cost effectiveness and efficiency to the Secretary of State.

(b) A vendor shall have thirty (30) business days from the date on which the deficiency notice was mailed by the Secretary of State to submit documentation to the Secretary of State curing the deficiencies identified in the deficiency notice.

(c) The Secretary of State may issue more than one deficiency notice to a vendor regarding the same Notary Public Education Vendor Application or Amendment, form NP40 (03/05), and lesson plan at any time during the review process.

(d) The Secretary of State shall disapprove a Notary Public Education Vendor Application or Amendment, form NP40 (03/05), if the deficiencies are not cured in

accordance with subdivision (b).

(e) Prior to the disapproval of an application or amendment, the vendor affected shall have the right to a hearing on the matter and the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.

(f) Upon the effective date of a decision disapproving an application or amendment, a vendor may cure the deficiencies identified in the decision and submit a Notary Public Education Vendor Application or Amendment, form NP40 (03/05), in accordance with Section 20800.

Note: Authority cited: Sections 8201.2, 8220, and 11415.10 Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.3. Notification of Changes of Approved Vendor Information.

Within thirty (30) business days of any changes in the information contained in the application approved by the Secretary of State or most current amendment submitted to the Secretary of State, an approved vendor shall submit to the Secretary of State a Notary Public Education Vendor Application or Amendment, form NP40 (03/05), identifying the changes. It shall be the responsibility of an approved vendor to confirm receipt by the Secretary of State.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.4. Lesson Plan Revisions.

(a) An approved vendor shall revise an approved lesson plan as necessary to ensure that the information provided in an approved course of study reflects current California law concerning the duties and functions of a notary public.

(b) Any proposed revisions to an approved lesson plan shall be approved by the Secretary of State prior to implementing the proposed revisions in an approved course of study.

(c) To apply for a certificate of approval for a revised lesson plan, an approved vendor shall submit a completed Notary Public Education Vendor Application or Amendment, form NP40 (03/05), and a revised lesson plan in accordance with Section 20800.

(d) The provisions in Sections 20800, 20800.1, and 20800.2 shall apply to a revised lesson plan.

(e) Upon approval of a revised lesson plan, the Secretary of State shall issue a certificate of approval for the course of study as identified in the revised lesson plan. The certificate of approval shall include the following: the name of the approved vendor as listed on the most current Notary Public Education Vendor Application or Amendment, form NP40 (03/05); the address on file with the Secretary of State as listed on the most current Notary Public Education Vendor Application or Amendment, form NP40 (03/05); the vendor identification number issued by the Secretary of State; and the date on which the revised lesson plan was approved by the Secretary of State. A certificate of approval for a revised lesson plan is non-transferable and shall not be transferred to another vendor or another course of study.

(f) As of the approval date of the revised lesson plan as indicated in the certificate of approval, an approved vendor shall only utilize the revised lesson plan in an approved course of study.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.5. Proof of Completion.

(a) An approved vendor shall issue proof of completion to a notary public applicant or notary public upon completion of an approved course of study, as provided in subdivision (c).

(b) An approved vendor shall ensure that only a person who has completed an approved course of study receives proof of completion, as provided in subdivision (c). If a notary public applicant or notary public fails to be present during any portion of an approved course of study, the Notary Public approved vendor shall not issue a proof of completion to the notary public applicant or notary public, and the notary public applicant or notary public shall not receive credit for the time in which he or she was present.

(c) Proof of completion shall consist of a certificate signed by an approved vendor or an employee, agent, instructor, contractor, or subcontractor of an approved vendor, which contains the following information:

1. The name of the approved vendor as it appears on the certificate of approval issued by the Secretary of State for the approved course of study.

2. The name of the notary public applicant or notary public who completed the approved course of study.

3. The type of photograph identification, identification number, expiration date, and state or country of issuance of the documentation establishing the identity of the notary public applicant or notary public who attended and completed the approved course of study.

4. The date the notary public applicant or notary public completed the approved course of study.

5. Whether the proof of completion is for a three-hour or six-hour course of study.

6. The following statements:

(A) proof of completion shall be valid for a period of two (2) years from the date of issuance; and

(B) proof of completion must be attached to the notary public application when submitted to the Secretary of State.

(d) Proof of completion of an approved course of study shall be valid for a period of two (2) years from the date of issuance. If proof of completion is submitted to the Secretary of State more than two (2) years after the proof of completion was issued, the Secretary of State shall notify the notary public applicant or notary public that the proof of completion is not valid and instruct the notary public applicant or notary public to complete an approved course of study and submit a valid, current proof of completion to the Secretary of State.

(e) Proof of completion submitted to the Secretary of State with a notary public application shall not be returned to the notary public applicant or notary public.

(f) If a notary public application is submitted without proof of completion or proof of completion is submitted without a notary public application, the Secretary of State shall return it to the notary public applicant or notary public with notification of the deficiency.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.6. List of Attendees.

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(a) An approved vendor shall maintain and secure a list of persons who attend each session of an approved course of study for a period of two (2) years from the date of issuance of proof of completion for the session in which a list refers. The list shall include the following:

1. The name of the approved vendor as listed in the certificate of approval for the approved course of study;
2. The vendor identification number issued by the Secretary of State;
3. The name of the instructor or instructors who taught the approved course of study;
4. The date, time, and location of the approved course of study;
5. The names of all the attendees in alphabetical order by the last name of the attendee and whether or not proof of completion was issued to each attendee; and
6. The type of photograph identification, identification number, expiration date, and state or country of issuance of the documentation establishing the identity of the notary public applicant or notary public who attended and completed the approved course of study.

(b) An approved vendor shall not collect the social security numbers of any attendees.

(c) "Secure" as used in this section means that an approved vendor, former approved vendor, or employee, agent, instructor, contractor, or subcontractor of an approved vendor or former approved vendor shall not copy or release any list of attendees or any information contained therein to any person, except the Secretary of State, district attorney, city attorney, or Attorney General.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.7. Secretary of State Attending Approved Course of Study.

An approved vendor shall permit the Secretary of State or representatives of the Secretary of State to attend any approved course of study without prior notice at no charge for the purpose of observation, monitoring, auditing, or investigating. Upon arrival at an approved course of study, the Secretary of State or representatives of the Secretary of State shall provide an approved vendor with a letter identifying the individual(s) attending the course pursuant to this section signed by the Secretary of State or a representative of the Secretary of State.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.8. Duty to Respond to a Written Request from the Secretary of State.

It shall be the duty of an approved vendor to respond in writing within thirty (30) business days of receiving a written request from the Secretary of State for any information relating to a course of study offered by the approved vendor. The Secretary of State shall send a written request to the address, facsimile number, or email address listed on the most current Notary Public Education Vendor Application or Amendment, form NP40 (03/05), filed pursuant to Section 20800 or 20800.3.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20800.9. Cancellation or Delay of Scheduled Approved Course of Study.

(a) Prior to charging any fees to a notary public applicant or notary public for an approved course of study, an approved vendor shall disclose the refund policy of the

approved vendor.

(b) An approved vendor shall refund all fees within thirty (30) business days of a scheduled course date to any notary public applicant or notary public who registered to attend an approved course of study if one of the following occurs:

(1) an instructor fails to appear at the scheduled time, date, and place of the approved course of study; or

(2) an approved course of study is delayed in starting more than fifteen minutes (15) after the scheduled time, a notary public applicant or notary public immediately informs the approved vendor of his or her request for a refund, and leaves the approved course of study prior to it starting.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20801. List of Approved Vendors.

(a) The list compiled in accordance with subdivision (c) of Section 8201.2 of the Government Code shall list approved vendors in alphabetical order according to the name of each vendor as listed on the most current Notary Public Education Vendor Application or Amendment, for NP40 (03/05), submitted to the Secretary of State.

(b) The Secretary of State may include the following information on the list of approved vendors for each approved vendor: the name of approved vendor in accordance with subdivision (a); a mailing address; a maximum of two (2) telephone numbers; a facsimile number; an email address; and a website address.

(c) The Secretary of State shall only update the list of approved vendors to add, delete, or amend approved vendor information, which is filed in accordance with Section 20800.3. An updated list of approved vendors shall be available by the first (1st) day of each month following the month during which there were additions, deletions, or amendments to the list of approved vendors. A certificate of approval must be issued by the Secretary of State or an amendment must be submitted to the Secretary of State by the fifteenth (15th) day of the preceding month to be reflected in the updated list of approved vendors available by the first (1st) day of the following month. If a certificate of approval is issued by the Secretary of State or an amendment submitted to the Secretary of State after the fifteenth (15th) day of a month, then the additions, deletions, or amendments shall be reflected in the updated list of approved vendors available by the first (1st) day of the second (2nd) month following the month in which the certificate of approval was issued by the Secretary of State or an amendment was submitted to the Secretary of State.

(d) The Secretary of State may also make a list of approved vendors available online at www.ss.ca.gov. The online list of approved vendors shall be in random order and searchable by the county or counties in which approved vendors provide approved courses of study. The online list shall be updated in accordance with subdivision (c).

(e) The Secretary of State reserves the right to delete any information from the list compiled pursuant to subdivision (c) of Section 8201.2 of the Government Code or subdivision (d) of this section that the Secretary of State determines may be misleading to the public or of an inappropriate nature.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20801.1. Grounds for Termination of a Certificate of Approval.

(a) The Secretary of State may terminate a certificate of approval upon any of the following grounds:

1. Violation of any of the provisions of this chapter or Sections 8201 or 8201.2 of the Government Code.
2. Misrepresentation of the laws of California concerning the duties and functions of a notary public.
3. Deviation from the lesson plan for a course of study approved by the Secretary of State.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20801.2. Termination of Certificate of Approval.

(a) Prior to the termination of a certificate of approval, the approved vendor affected shall have a right to a hearing on the matter and the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.

(b) If the Secretary of State determines, after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, that any approved vendor has committed or omitted acts constituting grounds for termination of the approved vendor's certificate of approval, the cancellation of the approved vendor's certificate of approval in accordance with Section 20801.3 shall not bar the Secretary of State from instituting or continuing an investigation or disciplinary proceedings. Upon completion of the disciplinary proceedings, the Secretary of State shall enter an order finding the facts and stating the conclusion that the fact would or would not have constituted grounds for termination of the certificate of approval if the certificate of approval had still been in effect.

Note: Authority cited: Sections 8201.2, 8220, and 11415.10, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20801.3. Cancellation of Certificate of Approval.

(a) An approved vendor may cancel its certificate of approval by submitting a written notice of cancellation to the Secretary of State. Unless otherwise stated in the notice of cancellation, the effective date of the cancellation of the certificate of approval shall be thirty (30) business days after receipt of the notice of cancellation. It shall be the responsibility of a vendor to confirm receipt by the Secretary of State.

(b) Within thirty (30) business days of the effective date of a cancellation of a certificate of approval, a vendor shall refund all fees to all individuals who paid to take an approved course from a vendor if the course is scheduled after the effective date of the cancellation.

Note: Authority cited: Sections 8201.2 and 8220, Government Code. Reference: Sections 8201 and 8201.2, Government Code.

§ 20802. Notary Public Fees.

(a) The Secretary of State shall charge a twenty dollar (\$20) processing fee for notary public applications to cover the costs of administering the program. The processing fee is nonrefundable.

(b) Upon written request, a notary public may obtain a duplicate commission

certificate from the Secretary of State for a fee of ten dollars (\$10) per certificate.

NOTE: Authority cited: Sections 8220 and 12182.1, Government Code. Reference: Sections 8201(c) and 8207.3, Government Code.

HISTORY

1. New chapter 8 (section 2:20802) and section filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Amendment filed 3-1-2001; operative 3-31-2001 (Register 2001, No. 9).
3. Renumbering of former section 2:20802 to section 2:20804 and renumbering of former section 2:20800 to section 2:20802 filed 5-3-2005; operative 5-3-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 20803. Notary Public Examination.

The written examination prescribed by the Secretary of State to determine the fitness of an applicant to exercise the functions of the office of notary public shall be a proctored examination administered by the Secretary of State or an agent of the Secretary of State. The Secretary of State or an agent of the Secretary of State shall charge a twenty dollar (\$20) examination fee which shall be payable at the examination site. The examination fee is nonrefundable. The examination results shall be valid for a period of one (1) year from the date of the examination.

NOTE: Authority cited: Sections 8220 and 12182.1, Government Code. Reference: Section 8201(c), Government Code.

HISTORY

1. Renumbering of former section 2:20801 to new section 2:20803 filed 5-3-2005; operative 5-3-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 20804. Notary Public Disciplinary Guidelines.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.), the Secretary of State shall consider the disciplinary guidelines entitled “Notary Public Disciplinary Guidelines 2012” which are hereby incorporated by reference. Deviation from the “Notary Public Disciplinary Guidelines 2012” is appropriate when the Secretary of State in his or her sole discretion determines that the facts of the particular case warrant such deviation (e.g., nature and severity of the act, the presence of mitigating factors or evidentiary problems).

(b) The publication entitled “Notary Public Disciplinary Guidelines 2012” is available on the internet at www.sos.ca.gov or contact the Secretary of State, Notary Public Section, Attention: Publications, 1500 11th Street, Sacramento, California 95814.

NOTE: Authority cited: Sections 8220 and 11400.20, Government Code. Reference: Sections 11400.20 and 11425.50(c), Government Code.

HISTORY

1. Renumbering of former section 20802 to new section 20804, including amendment of section heading, filed 5-3-2005; operative 5-3-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).
2. Amendment of “Notary Public Disciplinary Guidelines” (incorporated by reference) and amendment of section filed 10-17-2012; operative 11-16-2012 (Register 2012, No. 42).



**Secretary of State
State of California**

**NOTARY PUBLIC
DISCIPLINARY GUIDELINES
2012**

This document is produced by the Secretary of State of the State of California. Additional copies may be obtained from:

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Website: www.sos.ca.gov/business/notary/

**SECRETARY OF STATE
FINAL TEXT OF REGULATIONS**

Chapter 8. Notary Public

§ 20804. Notary Public Disciplinary Guidelines.

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Note: Authority: Sections 8220 and 11400.20, Government Code.

Reference: Sections 11400.20 and 11425.50(e), Government Code.

**SECRETARY OF STATE
NOTARY PUBLIC DISCIPLINARY GUIDELINES**

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INTRODUCTION

The Secretary of State is charged with the responsibility of appointing and commissioning notaries public in the State of California. In the performance of such duties, the Secretary of State strives to ensure that applicants and commissioned notaries public possess the requisite honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. Character is germane to the qualifications of the office of a notary public, given the nature of the duties and responsibilities. Government, business, and the public depend on the integrity of notaries public to take the required steps in authenticating signatures and properly completing transactions. The issue of good character is the foundation of all notarial acts.

California Government Code section 8201.1 requires the Secretary of State to determine whether an applicant possesses the requisite qualities prior to granting an appointment and commission as a notary public. Information provided on an application, such as outstanding bench warrants and arrest warrants, may prevent the Secretary of State from making an immediate determination. In such cases, the Secretary of State may hold the application and request additional information from the applicant to resolve any questions or deny the application.

To ensure the integrity of notaries public, the Secretary of State may refuse to appoint any person as a notary public or may revoke or suspend the commission of any notary public for failure to meet the minimum qualification standards or violation of notary public law. In addition to appointing and commissioning notaries public, the Notary Public Section of the Secretary of State receives complaints, investigates alleged violations of notary public law, and conducts administrative hearings. The authority of the Secretary of State to institute disciplinary action is provided for in Chapter 3 of Division 1 of Title 2 of the Government Code (commencing with section 8200). Furthermore, the Secretary of State may adopt rules and regulations to enforce applicable laws pursuant to Government Code section 8220.

The disciplinary guidelines contained herein are intended to facilitate due process and uniformity in reviewing applications, investigating alleged violations, and instituting administrative actions. The disciplinary guidelines are designed to assist administrative law judges, attorneys, notaries public, notary public applicants, and others involved in the disciplinary process. The Secretary of State anticipates periodic revision of the disciplinary guidelines, to provide accurate and complete information regarding the disciplinary process of the agency. The disciplinary guidelines address only the Secretary of State's review of applications, investigations, and administrative actions and are not a comprehensive overview of the criminal and civil offenses in statute, which may subject a notary public to additional civil penalties or to criminal prosecution for violations of applicable law.

California law establishes a number of infraction, misdemeanor, and felony offenses applicable to notaries public in addition to the sanctions discussed in these guidelines. For more information, please review Government Code sections 6203 and 8200 et seq., Civil Code section 1185 et seq., and Penal Code sections 115 et seq., 470 et seq., and 530.5.

In reviewing an application or investigating an alleged violation of notary public law, the Secretary of State must consider the totality of the offense, facts, and circumstances in each individual case. Some cases may require departure from the recommended actions in the disciplinary guidelines. If individual circumstances exist which justify departure from the disciplinary guidelines, the Secretary of State requests that the administrative law judge hearing the case clearly delineate the factual basis for his or her proposed decision. This will assist the Secretary of State in evaluating proposed decisions and issuing final decisions that accurately reflect the facts of each specific disciplinary matter.

The guidelines reflect the specific civil penalties established for certain violations of notary public law in Government Code sections 8213.5, 8213.6, 8214.15, 8214.21, and 8214.23, and Civil Code sections 1185 and 1189, where applicable. A civil penalty may be imposed in conjunction with a revocation or suspension of a commission or the denial of an application submitted by a person who may have held a notary public commission in the past or as the sole disciplinary sanction taken against a notary public.

To protect the public and deter violations of notary public law, the Secretary of State may publish disciplinary action decisions as a matter of public record.

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DESCRIPTION OF PENALTIES

DENIAL

This action denies an application for an appointment and commission as a notary public. In notifying the applicant of the denial, the Secretary of State must specify the reasons for the denial. If an applicant had a violation during a previous commission, the Secretary of State may deny an application for a new commission as a notary public. The applicant may appeal the denial by requesting an administrative hearing.

REVOCAION

This action revokes a commission as a notary public and prohibits the respondent from performing the duties and responsibilities of a notary public, including acts that require a commission as a notary public.

The respondent has thirty (30) calendar days from the date of the revocation to deliver all notary public records and papers, including the notary public journal, to the clerk of the county in which the current oath of office as a notary public is on file. If the respondent willfully fails or refuses to deliver all notary public records and papers to the county clerk within that time, the respondent is guilty of a misdemeanor and is personally liable for damages to any person injured by the action or inaction. (Government Code section 8209(a).)

Government Code section 8207 requires the respondent to destroy or deface his or her notary public seal upon revocation of the notary public's commission.

SUSPENSION

Imposition of a suspension is intended to protect the public from continued illegal behavior and facilitate the rehabilitation of the respondent, including correction of deficiencies in skills, education or personal rehabilitation. This action, which may be taken in conjunction with a stayed revocation, prohibits the respondent from engaging in or performing the duties and responsibilities of a notary public, including acts that require a commission as a notary public, for a specified period of time. Furthermore, the respondent shall be ordered to notify all customers of the suspension.

To ensure compliance with the suspension, approximately thirty (30) calendar days after the conclusion of the suspension, the Secretary of State will send a written request by certified mail to the respondent for certified copies of the notary public's journal. The requested journal entries will include, but will not be limited to, the period of time including thirty (30) calendar days prior to the suspension, the duration of the suspension, and thirty (30) calendar days following the conclusion of the suspension.

Government Code section 8205(b) requires the respondent to provide certified copies of the journal to the Secretary of State within the time specified in the written request.

CIVIL PENALTY In addition to revoking or suspending a notary public commission, or denying a new commission to a person, the Secretary of State may also impose civil penalties as prescribed by law.

PUBLIC NOTICE Any disciplinary sanction or civil penalty imposed as a result of a decision may be published by the Secretary of State. Additionally, the Secretary of State may issue press releases or other public notices of disciplinary action, including posting notices on the Secretary of State's website.

IMPORTANT NOTE Probation and restriction of a commission as a notary public are not available to the Secretary of State as disciplinary sanctions for violations of notary public law.

FACTORS CONSIDERED

In determining whether to deny, revoke or suspend a commission as a notary public, the Secretary of State considers a variety of factors, including, but not limited to, the following:

- (1) Nature and severity of the act, offense or crime under consideration.
- (2) Number and/or variety of current violations.
- (3) Evidence pertaining to the requisite honesty, credibility, truthfulness, and integrity of the applicant or commissioned notary public.
- (4) Actual or potential harm to the general public, group, individual or customer.
- (5) History of complaints received by the Secretary of State.
- (6) Prior disciplinary record or warning from the Secretary of State.
- (7) Circumstances or evidence in mitigation. (See page 35.)
- (8) Circumstances or evidence in aggravation. (See page 36.)
- (9) Prior disciplinary record of occupational, vocational or professional license.
- (10) Evidence of rehabilitation and, in the case of a criminal conviction, evidence of a certificate of rehabilitation or dismissal of the offense.
- (11) Bench warrants or arrest warrants delay or prevent the Secretary of State from determining whether an applicant possesses the requisite honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the office. In such cases the Secretary of State may hold the application and request additional information from the applicant or other sources, or may deny the application.
- (12) Pending appeals or other procedural issues of a criminal conviction(s) delay or prevent the Secretary of State from determining whether an applicant possesses the requisite honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the office. In such cases the Secretary of State may hold the application and request additional information from the applicant or other sources, or may deny the application.

- (13) Criminal record.
- (14) Reports generated by law enforcement agencies.

VIOLATIONS AND RECOMMENDED ACTIONS

The Secretary of State maintains and enforces minimum qualification standards to protect the public and ensure that notaries public thoroughly understand and abide by the applicable laws in the performance of their duties and responsibilities. The Secretary of State's emphasis is on disciplining notaries public that demonstrate incompetence or willful misconduct.

Government Code section 8214.1 specifies the grounds for which the Secretary of State may deny an application for a commission or revoke or suspend the commission of a notary public. Government Code section 8219.5 specifically addresses advertising in a language other than English and the requisite notice to be posted, and requires the Secretary of State to suspend or revoke the commission of a notary public on the first violation, and permanently revoke the commission of a notary public on the second violation. The disciplinary guidelines below identify the sanctions the Secretary of State may impose under Government Code sections 8213.5, 8213.6, 8214.1, 8214.15, 8214.21, 8214.23, and 8219.5, and Civil Code sections 1185 and 1189 following an administrative proceeding.

Each individual case must be reviewed in detail and may warrant departure from the disciplinary guidelines. In such cases, the Secretary of State requests that the administrative law judge clearly delineate the factual basis for deviating from the disciplinary guidelines.

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VIOLATION OF GOVERNMENT CODE SECTION

8214.1(a) Substantial and Material Misstatement or Omission in an Application to Become a Notary Public

Applications for commission as a notary public are signed under penalty of perjury. Applicants certify that all statements are true and complete. The information contained in the application is used by the Secretary of State to determine the identity of the applicant and whether the applicant possesses the requisite honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position. Therefore, complete and accurate disclosure of the requested information is essential for the Secretary of State to evaluate applicants and appoint and commission notaries public in the State of California.

- (1) If the application contains a substantial and material misstatement or omission *other than* information relating to a conviction of a felony, a lesser offense involving moral turpitude or a lesser offense incompatible with the duties or responsibilities of a notary public, the recommended action is:

Denial of the application.

- (2) If the application contains a substantial and material misstatement or omission *relating to a conviction* of a felony, a lesser offense involving moral turpitude or a lesser offense incompatible with the duties or responsibilities of a notary public, the recommended action is:

Denial of the application.

- (3) If the Secretary of State issues a commission as a notary public and subsequently finds that the application contained a substantial and material misstatement or omission, the recommended action is:

Revocation of the commission.

Example 1: False or misleading information regarding, but not limited to:

- Date of birth
- Social security number
- Driver's license or identification card
- Citizenship or alien registration

Example 2: False, misleading or omitted information about any arrest(s) or conviction(s) for a felony or lesser offense, including but not limited to:

- Driving under the influence (DUI)

- Theft or petty theft
- Trespassing
- Forgery
- Prostitution

NOTE: All convictions must be disclosed, regardless of when or where they occurred, including convictions that have been dismissed or expunged under Penal Code sections 1203.4 or 1203.4a. The only exceptions are traffic infractions, offenses adjudicated in a juvenile court or under a youthful offender law, and any incident that has been sealed under Welfare and Institutions Code section 781 or Penal Code section 1203.45 (juvenile offenses).

Example 3: False, misleading or omitted information about prior court ordered judgments, including, but not limited to:

- Small claims judgments
- Civil actions

Example 4: False, misleading or omitted information about prior administrative action(s), as a commissioned notary public or other licensed professional, including, but not limited to:

- Notary public, administrative and/or criminal actions
- Real estate, administrative and/or criminal actions
- Attorney, administrative and/or criminal actions
- Medical doctor, administrative and/or criminal actions
- Insurance, administrative and/or criminal actions
- Contractor, administrative and/or criminal actions

Example 5: False, misleading or omitted information about the use of another name, including, but not limited to:

- All aliases
- Maiden name(s)
- Court sanctioned name change

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(b) Conviction of a Felony or Lesser Offense

In cases when an applicant or a commissioned notary public has been convicted of a felony, a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a notary public, the Secretary of State must determine whether the applicant or commissioned notary public possesses the requisite honesty, credibility, truthfulness, and integrity to fulfill the duties and responsibilities of the office. A conviction after a plea of nolo contendere is a conviction within the meaning of this subdivision.

- (1) If an applicant has been convicted of or pled nolo contendere to a felony, a lesser offense involving moral turpitude, or a lesser offense of a nature incompatible with the duties of a notary public, the recommended action is:

Denial of the application.

- (2) If a commissioned notary public is convicted of or pled nolo contendere to a felony, a lesser offense involving moral turpitude or a lesser offense of a nature incompatible with the duties of a notary public during the term of a commission, the recommended action is:

Revocation of the commission.

Departure from the above recommended actions may be warranted based upon the following factors:

- (a) In the case of a felony conviction, the passage of not less than ten (10) years since the completion of probation or parole or, if probation or parole was not ordered, then release from incarceration;
- (b) In the case of a conviction for a lesser offense involving moral turpitude or incompatible with the duties of a notary public, the passage of not less than five (5) years since the completion of probation or parole or, if probation or parole was not ordered, then release from incarceration.

If the time periods specified above have been met for each conviction, the Secretary of State should also consider the following in determining whether departure from the above recommended actions is warranted:

- (a) If the conviction occurred in the State of California, evidence that a certificate of rehabilitation has been issued in accordance with Chapter 3.5 (commencing with Section 4852.01) of the Penal Code for each felony conviction, or a dismissal pursuant to Penal Code section 1203.4 or 1203.4a for each misdemeanor conviction. If the conviction occurred outside the jurisdiction of this state, evidence attesting to some level of rehabilitation comparable to that provided in Chapter 3.5 (commencing with Section

4852.01) of the Penal Code for each felony conviction, or relief comparable to a dismissal pursuant to Penal Code section 1203.4 or 1203.4a for each misdemeanor conviction;

- (b) Restitution to any person or entity who has suffered monetary losses through “substantially related” acts or omissions of the applicant in connection with the criminal conviction;
- (c) Payment of any fine or other monetary penalty imposed in connection with a criminal conviction or an administrative adjudication; and
- (d) Correction of any business practices which resulted in injury to others or which had the potential to cause injury in connection with the criminal conviction.

Convictions of other offenses involving moral turpitude or lesser offenses incompatible with the duties of a notary public include, but are not limited to, crimes involving the following:

- Arson-related offenses
- Assault
- Auto theft
- Battery
- Burglary
- Carrying a concealed weapon
- Carrying a loaded firearm in a public place
- Child molestation
- Child pornography
- Conspiracy
- Discharge of a firearm in a public place or into an inhabited dwelling
- Drugs, possession for sale and sale
- Embezzlement
- Escape without force
- Failure to comply with a court order
- Failure to pay child support
- Failure to return to confinement
- False financial statements
- False imprisonment
- Forgery
- Fraud involving, but not limited to, bank cards, credit cards, insufficient funds/checks, insurance, mail, Medi-Cal or Medicare, real estate, tax, and welfare
- Fraudulent impersonation of a peace officer
- Hit and run
- Kidnapping-related offenses
- Manslaughter

- Pimping and pandering
- Possession of an unregistered firearm
- Practicing without a license when a license is required
- Prostitution
- Rape
- Receipt of stolen property
- Resisting or threatening a peace officer
- Robbery
- Solicitation
- Statutory rape
- Tax evasion
- Terrorist threats
- Theft, grand and petty, including burglary and robbery
- Threats to commit a crime involving death or great bodily injury
- Violation of Penal Code section 273.5 (domestic violence, spousal abuse, etc.)

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(c) Revocation, Suspension, Restriction or Denial of a Professional License

The Secretary of State may review and institute administrative actions in cases when an applicant or commissioned notary public was granted a professional license that was revoked, suspended, restricted, or an application was denied, for misconduct, dishonesty, or any cause that is substantially related to the duties or responsibilities of a notary public. "Professional license" includes any professional, occupational or vocational license issued by a governmental entity.

- (1) If a professional license of an applicant was revoked, suspended, restricted, or an application was denied for misconduct, dishonesty, or any cause that is substantially related to the duties or responsibilities of a notary public, the recommended action is:

Denial of the application.

- (2) If a professional license of a commissioned notary public is revoked, suspended, restricted, or an application is denied during the appointment and commission as a notary public for misconduct, dishonesty, or any cause that is substantially related to the duties or responsibilities of a notary public, the recommended action is:

Revocation of the commission.

Example: Applicable professional licenses held by a notary public applicant or commissioned notary public include, but are not limited to:

- Real estate
- Attorney
- Insurance

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(d) Failure to Discharge the Duties or Responsibilities of a Notary Public

Notaries public are charged with a variety of duties and responsibilities relating, but not limited, to performing notarial acts, maintaining and securing a notary public journal and seal, and notifying the Secretary of State of address and name changes. Notarial duties, responsibilities and acts that are not properly performed compromise the integrity of notarized documents and jeopardize the interests of the customers of the notary public.

- (1) If an applicant during a previous commission as a notary public failed to discharge any of the duties or responsibilities of a notary public, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$750.
(Government Code section 8214.15(b).)

- (2) If a commissioned notary public fails to discharge any of the duties or responsibilities of a notary public, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$750.
(Government Code section 8214.15(b).)

- (3) In addition to the civil penalties described above,
- a notary public who fails to obtain a thumbprint, as required by Government Code section 8206, from a party signing a document, is subject to a separate civil penalty of \$2,500. (Government Code section 8214.23.)
 - a notary public who fails to obtain satisfactory evidence from a credible witness, as required by Civil Code section 1185, is subject to a separate civil penalty of \$10,000.

Examples:

- Failure to verify identification
- Failure to require personal appearance
- Unauthorized use of seal
- Failure to maintain the notary journal with complete records of official acts
- Failure to complete journal line items at the time of the notarial act
- Failure to obtain a thumbprint in the notary journal
- Notarization of incomplete documents
- Failure to notify Secretary of State of any address changes
- Failure to respond to a written request from the Secretary of State
- Loss of the right to authorize confidential marriages

NOTE: Discussion of Confidential Marriages.

If after conducting a hearing the county clerk finds that the notary public has violated any of the provisions of Family Code section 500 et seq. or section 530 et seq. regarding issuing confidential marriages, the county clerk may place the notary public on probation for issuing confidential marriage licenses or may suspend or revoke the approval to issue confidential marriage licenses. If a notary public violates any of the provisions of Government Code section 8214.1, the county clerk's approval to issue confidential marriage licenses automatically will be revoked. In addition, the county clerk will report the findings of any hearing to the Secretary of State for appropriate action.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(e) Adjudged Liable for Damages in Any Suit Grounded in Fraud, Misrepresentation, Violation of State Regulatory Laws or Failure to Discharge Fully and Faithfully the Duties of a Notary Public

A notary public applicant or commissioned notary public adjudged liable for damages in a case involving fraud, misrepresentation, violation of state regulatory laws or failure to fully and faithfully discharge the duties of the office is in direct conflict with the most fundamental requirements of the office of a notary public.

- (1) If an applicant was adjudged liable for damages in any suit grounded in a violation of state regulatory laws or failure to discharge fully and faithfully the duties of a notary public, the recommended action is:

Denial of the application.

- (2) If a commissioned notary public is adjudged liable for damages in any suit grounded in fraud, misrepresentation or violation of state regulatory laws or failure to discharge fully and faithfully the duties of a notary public, the recommended action is:

Revocation of the commission.

Example 1: A judgment entered against a notary public in a civil action in which the notary public performed a fraudulent notarial act, such as executing an acknowledgment without requiring the signer to appear in person before the notary public.

Example 2: A judgment entered against a notary public in which the notary public was liable for damages in a suit which was grounded in fraud and breach of fiduciary duty and the failure of the notary public to properly discharge his or her duties. Fraudulent activities may include, but are not limited to, altering escrow documents, passing the costs on to the escrow company's customers, charging customers for notary public services that were not provided, charging notary public fees that exceeded statutory limits, and forging a customers signature.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(f) Use of False or Misleading Advertising

A commissioned notary public is prohibited from using false or misleading advertising representing that he or she has duties, rights or privileges that he or she does not possess by law.

- (1) If an applicant, during a previous commission as a notary public, used false or misleading advertising representing that he or she had duties, rights or privileges that he or she did not possess by law, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

- (2) If a commissioned notary public used false or misleading advertising representing that he or she had duties, rights or privileges that a notary public does not possess by law, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

Example 1: Notary public whose commission has been suspended, advertises notary public services while on suspension.

Example 2: Notary public advertises services as a real estate agent when not licensed as a real estate agent.

NOTE: See also Discussion of Advertising Violations on page 32.

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VIOLATION OF GOVERNMENT CODE SECTION

8214.1(g) Practice of Law Without a License

A notary public applicant or commissioned notary public, who is not an active member of the State Bar of California shall not practice law. Business and Professions Code section 6125 states that, “No person shall practice law in California unless the person is an active member of the [California] State Bar.”

- (1) If an applicant has been engaged in the practice of law in violation of Business and Profession Code section 6125, the recommended action is:

Denial of the application.

- (2) If a commissioned notary public has been engaged in the practice of law in violation of Business and Professions Code section 6125, the recommended action is:

Revocation of the commission.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(h) Charging more than the Prescribed Fees

Government Code sections 8211 and 8223 establish the fees a commissioned notary public may charge for notarial acts.

- (1) If an applicant, during a previous commission as a notary public, charged more than the fees prescribed by law, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$750. (Government Code section 8214.15(b).)

- (2) If a commissioned notary public charged more than the fees prescribed by law, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$750. (Government Code section 8214.15(b).)

Example: A notary public charged a total of forty dollars (\$40) for a notarization, ten dollars (\$10) for an acknowledgment and thirty dollars (\$30) for a travel fee. However, the notary public did not travel.

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VIOLATION OF GOVERNMENT CODE SECTION

8214.1(i) Act Involving Dishonesty, Fraud, or Deceit with the Intent to Substantially Benefit the Notary Public or Another, or Substantially Injure Another

Committing an act involving dishonesty, fraud, or deceit with the *intent* to benefit the notary public or applicant or substantially injure another is in direct conflict with the most fundamental requirements of any individual appointed to the office of notary public or an applicant.

- (1) If an applicant committed any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the applicant or another, or to substantially injure another, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

- (2) If a commissioned notary public committed any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the notary public or another, or to substantially injure another, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

Example 1: Embezzlement with the intent to benefit the applicant and/or notary public and defraud the employer, thereby committing a willful act involving dishonesty and deceit.

Example 2: Compromising the notary public examination by taking any exam material by any method from the exam site or cheating during the notary public exam.

Example 3: An individual embezzled funds from his employer. The employer did not want to file charges against the employee. An agreement is drawn up between the employer and the employee to pay back the funds and is signed by both parties.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(j) Failure to Complete the Acknowledgment at the Time the Signature and Seal are Affixed to the Document

Government Code section 8205 requires a notary public to fully complete an acknowledgment at the time the notary public signs the acknowledgment and affixes the notary public seal.

- (1) If an applicant, during a previous commission as a notary public, failed to complete an acknowledgment at the time he or she signed the acknowledgment and affixed his or her notary seal to the document, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$750.
(Government Code section 8214.15(b).)

- (2) If a commissioned notary public fails to complete the acknowledgment at the time he or she signs the document and affixes his or her notary seal, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$750.
(Government Code section 8214.15(b).)

Example: Affixing a notary public seal and signature to an acknowledgment that is incomplete because the notary public did not complete the venue, the date, or the names of the person(s) appearing before the notary public. The acknowledgment may or may not be associated with the execution of a specific document.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(k) Failure to Administer the Oath or Affirmation

Government Code section 8205(a)(3) requires a notary public, upon request, to administer oaths and affirmations in all matters incident to the duties of the office or to be used before any court, judge, officer, or board. The notary public must sign the oath or affirmation and affix the notary public seal at the time of the oath or affirmation.

- (1) If an applicant, during a previous commission as a notary public, failed to administer the oath or affirmation as required by Government Code section 8205(a)(3), the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$750.
(Government Code section 8214.15(b).)

- (2) If a commissioned notary public fails to administer the oath or affirmation as required by Government Code section 8205(a)(3), the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$750.
(Government Code section 8214.15(b).)

Example: Notary public completed a jurat when the person signing the document did not appear in person before the notary public.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(l) Execution of any Certificate as a Notary Public Containing a Statement Known to the Notary Public to be False

Execution of a certificate that the notary public knew contained a false statement is a serious breach of honesty, credibility, truthfulness, and integrity, which are paramount to the office of a notary public. These characteristics are fundamental to the duties and responsibilities of a notary public and are depended upon by government, business, and the public.

- (1) If an applicant, during a previous commission as a notary public, executed any certificate that contained a statement known to the notary public to be false, the recommended action is:

Denial of the application commission and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

- (2) If a commissioned notary public executed any certificate as a notary public that contained a statement known to the notary public to be false, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

In addition to the civil penalties described above, a notary public who willfully states as true any material fact that he or she knows to be false is subject to a separate civil penalty of \$10,000. (Civil Code section 1189.)

Example 1: The notary public backdates an acknowledgment.

Example 2: The notary public executes an acknowledgment for a person who did not appear in person before the notary public.

Example 3: The notary public accepts a Social Security card or matricula consular card as identification for an acknowledgment.

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VIOLATION OF GOVERNMENT CODE SECTION

8214.1(m) Violating Government Code section 8223: Immigration Matters

Notaries public must be aware of restrictions connected to immigration matters and must fully understand those restrictions when advertising their services in order to avoid misleading the public or misrepresenting the authority of notaries public. In summary, Government Code section 8223 provides that a notary public with expertise in immigration matters or who provides immigration services cannot advertise in any manner that he or she is a notary public.

- (1) If an applicant, during a previous commission as a notary public, violated Government Code section 8223, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

- (2) If a commissioned notary public violates Government Code section 8223, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$1,500. (Government Code section 8214.15(a).)

Example: A notary public advertises both immigration and notary public services, not necessarily in the same advertisement.

NOTE: See also Discussion of Advertising Violations on page 32.

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VIOLATION OF GOVERNMENT CODE SECTION

8214.1(n) Failure Upon Demand to Submit Any Remittance Payable to the Secretary of State or Failure to Satisfy Any Court-Ordered Money Judgment, Including Restitution

The Secretary of State will consider the failure upon demand to submit payment of a civil penalty for violation of notary public law or failure to satisfy any court-ordered money judgment, including restitution, in determining whether an applicant possess the requisite honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the office prior to appointing and commissioning a notary public and in determining whether to institute administrative action against a notary public.

- (1) If an applicant fails to submit any remittance payable to the Secretary of State or fails to satisfy any court ordered money judgment, including restitution, the recommended action is:

Denial of the application.

- (2) If a commissioned notary public fails to submit any payment of a civil penalty for violation of notary law or fails to satisfy any court ordered money judgment, including restitution, the recommended action is:

Revocation of the commission.

Example: Failure to remit full payment by the date ordered for a civil penalty imposed by a decision in an administrative action.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(o) Failure to Secure Journal or Official Seal

The sequential journal and the official seal are the exclusive property of the notary public.

Under Government Code sections 8206 and 8207, respectively, the journal and seal must be kept in a locked and secured area, under the notary public’s direct and exclusive control. The circumstances in which the notary public must relinquish the journal or permit inspection and copying of journal transactions and the procedures the notary public must follow are specified in Government Code section 8206(d). The notary public shall not relinquish the seal to any other person, except to a court ordering surrender of the seal to the court as provided by Government Code section 8214.8 upon conviction of specified offenses.

- (1) If an applicant, during a previous commission as a notary public, failed to secure the sequential journal or the official seal, as required by Government Code sections 8206 and 8207 the recommended action is:

Denial of the application.

- (2) If a commissioned notary public fails to secure the sequential journal or the official seal, as required by Government Code sections 8206 and 8207, the recommended action is:

Revocation of the commission.

Example 1: A notary public gives his or her journal to another person to obtain signatures.

Example 2: A notary public leaves his or her journal or stamp unattended in an area accessible to others.

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VIOLATION OF GOVERNMENT CODE SECTION

8214.1(p) Violation of Government Code Section 8219.5: Advertising in Language Other than English

Advertising in words other than in English may result in a misrepresentation due to “literal translation” of a word or phrase from one language to another without regard to the true meaning of the word or phrase in the language which is being translated. The literal translation of the phrase “notary public” into Spanish, hereby defined as “*notario publico*” or “*notario*,” is prohibited. Such a literal translation often creates a false assumption that the notary public is an attorney and can charge fees in conjunction with professional legal services.

A notary public who is not an attorney shall not advertise the services of a notary public in a language other than English by signs or other means of written communication with the exception of a single desk plaque, unless the sign or other written communication is accompanied by a notice in English and in the other language that sets forth the following: (1) the statement that: “I am not an attorney and, therefore, cannot give legal advice about immigration or any other legal matters;” and (2) the fees set by statute which a notary public may charge. See Discussion of Advertising Violations on page 32.

- (1) If an applicant, during a previous commission as a notary public, violated Government Code section 8219.5, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$1,500.
(Government Code section 8214.15(a).)

- (2) If a commissioned notary public violates Government Code section 8219.5, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$1,500. (Government Code sections 8214.15(a) and 8219.5(d).)

- (3) If an applicant, during a previous commission as a notary public, violated Government Code section 8219.5, and the offense was not the first offense, the recommended action is:

Permanent denial of the application and the maximum civil penalty permitted by law of \$1,500. (Government Code sections 8214.15(a) and 8219.5(d).)

- (4) If a commissioned notary public violates Government Code section 8219.5, and the offense is not the first offense, the recommended action is:

Permanent revocation of the commission and the maximum civil penalty permitted by law of \$1,500. (Government Code sections 8214.15(a) and 8219.5(d).)

Example 1: Advertising as a notary public in a language other than English without providing the requisite notice in English and in the other language that the notary public is not an attorney and cannot give legal advice about immigration and any other legal matters and also without setting forth the statutory fees that can be charged by the notary public for notarial services.

Example 2: Using the words “*notario publico*” in any writing.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(q) Commission of an Act in Violation of Government Code sections 6203, 8214.2, 8225, or 8227.3 or Penal Code sections 115, 470, 487, or 530.5

“Every officer authorized by law to make or give any certificate or other writing is guilty of a misdemeanor if he or she makes and delivers as true any certificate or writing containing statements which he or she knows to be false.” (Government Code section 6203(a).)

A notary public who knowingly and willfully with intent to defraud performs any notarial act in relation to a deed of trust on real property consisting of a single-family residence containing four (4) dwelling units or less, knowing the deed of trust contains any false statements or is forged, in whole or in part, is guilty of a felony. (Government Code section 8214.2(a).)

Any person who solicits, coerces, or in any manner influences a notary public to perform an improper notarial act knowing the act is improper, including any act required of a notary public in connection with the notary journal, is guilty of a misdemeanor. (Government Code section 8225(a).)

Any person who is not a duly commissioned, qualified, and acting notary public who represents or holds himself or herself out as a notary public, who assumes, uses or advertises the title of notary public in such a manner as to convey the impression that the person is a notary public, or who acts as a notary public, is guilty of a felony if done in relation to any document or instrument affecting title to, placing an encumbrance on, or placing an interest secured by a mortgage or deed of trust on, real property consisting of a single-family residence of four (4) dwelling units or less. (Government Code section 8227.3.)

“Every person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.” (Penal Code section 115.) Every person who, with the intent to defraud, counterfeits or forges the seal or handwriting of another or commits other acts, including falsifying the acknowledgment of any notary public or any notary public who issues an acknowledgment knowing it to be false, is guilty of forgery. (Penal Code section 470(b).)

Every person who takes money, labor, or real or personal property exceeding the value of \$950 is guilty of grand theft. (Penal Code section 487(a)).

Every person who willfully obtains the personal identifying information of another person, including the name, address, checking account information, tax identification number, driver’s license information, or other personal identifying information, and who uses that information for any unlawful purpose, including intending to obtain, or attempting to obtain,

credit, goods, services, real property, or medical information without the consent of that person, is guilty of a misdemeanor or a felony at the discretion of the court. (Penal Code section 530.5.)

- (1) If an applicant has violated Government Code sections 6203, 8214.2, 8225, or 8227.3 or Penal Code sections 115, 470, 487, or 530.5, the recommended action is:

Denial of the application.

- (2) If a commissioned notary public has violated Government Code sections 6203, 8214.2, 8225, or 8227.3 or Penal Code sections 115, 470, 487, or 530.5, the recommended action is:

Revocation of the commission.

VIOLATION OF GOVERNMENT CODE SECTION

8214.1(r) Willful Failure to Provide Access to the Notary Public Journal Upon Request by a Peace Officer

A notary public is required to surrender the notary public journal upon request to a peace officer acting in his or her official capacity and within his or her authority in the course of an investigation of a criminal offense. To request the journal, the peace officer must have reasonable suspicion to believe the journal contains evidence of a criminal offense. To seize the journal, the officer must have probable cause. If the journal is not present when the request is made, the notary public must surrender the journal to the peace officer as soon as possible. (Government Code section 8206(d).)

- (1) If an applicant, during a previous commission as a notary public, failed to provide access to the notary public journal upon request by a peace officer, the recommended action is:

Denial of the application and the maximum civil penalty permitted by law of \$2,500. (Government Code section 8214.21.)

- (2) If a commissioned notary public fails to provide access to the notary public journal upon request by a peace officer, the recommended action is:

Revocation of the commission and the maximum civil penalty permitted by law of \$2,500. (Government Code section 8214.21.)

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DISCUSSION OF ADVERTISING VIOLATIONS

A significant number of the investigations and disciplinary hearings conducted by the Secretary of State relate to alleged advertising violations. Notaries public must be aware of certain restrictions and must fully understand those restrictions when advertising to avoid misleading the public or misrepresenting the authority of notaries public.

In many cases, a business owner, who is not a notary public, employs a notary public to provide such services. If the business owner provides immigration services and advertises both the immigration and notary public services, the owner may be putting the commission of the notary public at risk. The same applies if the business owner advertises the literal translation of “notary public” into Spanish or advertises notary public services in a language other than English without posting the required statutory notice. These advertising violations also may prompt the Secretary of State to conduct an investigation of the notary public, which could result in the suspension or revocation of the commission and the loss of notary public services by the business.

Consider the following scenarios:

- (1) A notary public advertises on business cards and on fliers the services of petitions of immigration (*peticiones de inmigracion*) in conjunction with notarizations (*notarizaciones*).
- (2) A notary public advertises in a storefront window both immigration and notarization services.

Are these advertisements a violation of the law? Is the notary public, as an employee of the business, in violation of the law? The answer to both questions above is “yes.” One of the most common advertising violations involves a notary public that advertises immigration and notary public services. Government Code section 8223 states in part:

“No notary public who holds himself or herself out as being an immigration specialist, immigration consultant or any other title or description reflecting an expertise in immigration matters shall advertise *in any manner whatsoever* that he or she is a notary public.” (Emphasis added.)

A notary public who advertises that he or she performs immigration services and also performs notarizations is in violation of Government Code section 8223 and is subject to disciplinary action in accordance with Government Code section 8214.1(m). The Secretary of State may deny an appointment or suspend or revoke the commission of a notary public who advertises in this manner. In addition, a violation of Government Code section 8214.1(m) is punishable by a civil penalty of up to one thousand five hundred dollars (\$1,500). (Government Code section 8214.15(a).)

Words such as “*ciudadanía*” (citizenship), “*inmigración*,” (immigration) or “*serv. inmigración*” (immigration services) may be interpreted as having expertise in immigration matters. The intent of this statute is to prevent a person who has an expertise in immigration matters from misrepresenting his or her authority, thereby misleading the public.

Another form of an advertising violation, though not as common, involves the literal translation of the phrase “notary public” into Spanish or the notary public who advertises the services of a notary public in a language other than English without posting the required statutory notice:

Consider the following scenarios:

- (1) A notary public advertises his or her services with a sign, which states “Notario Publico.”
- (2) A notary public’s advertisement contains the word “*notarizaciones*,” which is the Spanish literal translation of “*notarizations*,” without posting the required notice.

Are these advertisements a violation of the law? Is the notary public, as an employee of the business, in violation of the law? Again, the answer to both questions is “yes.” Government Code section 8219.5 provides in part:

- (a) Every notary public who is not an attorney who advertises the services of a notary public in a language other than English by signs or other means of written communication, with the exception of a single desk plaque, shall post with that advertisement a notice in English and in the other language which sets forth the following:
 - (1) This statement: I am not an attorney and, therefore, cannot give legal advice about immigration or any other legal matters.
 - (2) The fees set by statute which a notary public may charge.
- (c) Literal translation of the phrase “notary public” into Spanish, hereby defined as “notario publico” or “notario,” is prohibited. For purposes of this subdivision, “literal translation” of a word or phrase from one language to another means the translation of a word or phrase without regard to the true meaning of the word or phrase in the language which is being translated.

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In many countries outside the United States, an individual must be a duly licensed attorney before obtaining a notary public commission. In Latin American countries, the phrase “*notario publico*” implies that the person is a practicing attorney in that country, which is not the law in the State of California. Under California law, a person may be appointed and commissioned as a notary public without being a licensed attorney.

Government Code section 8219.5(c) prohibits the literal translation of the phrase “notary public” into the Spanish language term “*notario publico*” because the term may mislead Spanish-speaking persons.

The Spanish language term “*notario publico*” often creates a false assumption that the notary public is a practicing attorney and can charge fees in conjunction with providing professional legal services.

Though “*notario publico*” is the literal Spanish phrase for “notary public,” there are other words or phrases, which, when translated from one language to another, cause a misunderstanding of the level of authority exercised by notaries public in the State of California. If a notary public advertises his or her services using words or phrases in a language other than English, a notice must be posted with the advertisement in English and in the other language, as specified in Government Code section 8219.5(a) cited above. A notary public who advertises words or phrases such as “*notarizaciones*,” “*notarizamos*,” or “*notarizados*,” which are forms of the word “notarization,” or any other word or phrase in a language other than English, must post the required notice with the advertisement.

A notary public who advertises the phrase “notary public” in Spanish or who advertises the services of a notary public in a language other than English without the required notice is subject to disciplinary action in accordance with Government Code section 8214.1(p). The Secretary of State may deny an appointment or suspend or revoke the commission of a notary public who advertises in this manner. In addition, a violation of Government Code section 8214.1(p) is punishable by a civil penalty of up to one thousand five hundred dollars (\$1,500). (Government Code Section 8214.15(a).)

The law is specific regarding the disciplinary action to be taken for a notary public who fails to comply with Government Code section 8219.5(a) and requires that their commission be suspended for a period of not less than one year or revoked on the first offense. The commission of the notary public must be revoked permanently on the second offense. (Government Code section 8219.5(d).)

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FACTORS AND EVIDENCE IN MITIGATION

In determining the proper penalty or action within the established disciplinary guidelines, the following factors and evidence, if presented, should be considered in mitigation of the offense, facts or circumstances:

- (1) Evidence that the respondent accepted and complied with a suggested resolution to a consumer complaint as recommended by the Secretary of State or other agency.
- (2) Evidence of voluntary participation in a program relating to the applicable laws and regulations and the duties and responsibilities of a notary public.
- (3) Evidence of resolution of consumer complaints with a subsequent change in business practice.
- (4) Evidence that the respondent fully cooperated with the investigation conducted by the Secretary of State, other law enforcement or regulatory agencies, and/or injured parties.
- (5) Evidence satisfactory to the Secretary of State of personal and professional rehabilitation.
- (6) Recognition by the respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.
- (7) Passage of considerable time since the violation(s) with no evidence or indication of recurrence or evidence or indication of any other misconduct.

FACTORS AND EVIDENCE IN AGGRAVATION

In determining the proper penalty or action within the established disciplinary guidelines, the following factors and evidence, if presented, should be considered in aggravation of the offense, facts or circumstances:

- (1) Prior warnings or notices of violations from the Secretary of State.
- (2) Prior demonstration of incompetence.
- (3) Prior history of formal disciplinary action.
- (4) Failure to submit certified copies of the notary public's journal entries to the Secretary of State for inspection within the time frame specified in a written request from the Secretary of State for such copies.
- (5) Evidence that the violation was knowingly committed and/or was premeditated.
- (6) Failure to cooperate with an investigation conducted by the Secretary of State.
- (7) Evidence the unlawful act was part of a pattern of practice.
- (8) Failure to comply with a request of the Secretary of State for corrective action.
- (9) Currently on a grant of probation by a court.
- (10) Failure to pay a court judgment to a victim.
- (11) Violation of a previous court order.
- (12) Any other conduct that constitutes fraud or gross negligence.
- (13) If immigration services are provided, failure to file and maintain a bond pursuant to Chapter 19.5 of Division 8 of the Business and Professions Code (commencing with section 22440).
- (14) Failure to abide by a decision and disciplinary sanctions, including payment

of a civil penalty, imposed pursuant to an administrative action.

(15) Failure to abide by the terms of a stipulated settlement.

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STIPULATED SETTLEMENTS

In instituting administrative actions, the Secretary of State must consider stipulated settlements to promote cost effectiveness and expedite disciplinary decisions if the terms of such agreements achieve the disciplinary objectives of the Secretary of State. After receipt of a notice of defense, legal counsel representing the Secretary of State must contact the respondent, or legal counsel representing the respondent, to inquire as to the interest in a stipulated settlement. The Secretary of State must consider the facts of the case and factors and evidence in mitigation and aggravation in reviewing a stipulated settlement. Generally, an order in a stipulated decision involving the denial, revocation or suspension of an appointment and commission will require respondent to pay a civil penalty, if authorized by law.

If it is unlikely that the disciplinary objectives of the Secretary of State will be satisfied through a stipulated settlement, legal counsel representing the Secretary of State shall schedule an administrative hearing before an administrative law judge and proceed with the case.

RECOMMENDED LANGUAGE FOR PROPOSED DECISIONS

The Secretary of State requests that a proposed decision issued by an administrative law judge include the following information:

- (1) Any defense presented by the respondent in the Findings of Fact.
- (2) Findings and listing of evidence regarding mitigation, aggravation, and rehabilitation, when appropriate.
- (3) If denying, revoking or suspending a commission, an order for sanctions corresponding to the recommended actions contained in these disciplinary guidelines, including civil penalties, unless the justification for the departure from the disciplinary guidelines is clearly set forth in the findings and supported by the listed evidence.
- (4) If suspending a commission, an order that the respondent notify their customers and future customers of the suspension by posting or circulating a notice that a suspension is in effect and the notary public cannot perform any notarial services during the period of suspension.
- (5) If imposing a civil penalty, an order that the respondent remit payment of the civil penalty to the Secretary of State by a specific date.
- (6) If revoking a commission, an order that the respondent relinquish the notary public journal to the clerk of the county in which the official oath is filed within thirty (30) calendar days of the effective date of the decision in accordance with Government Code section 8209.
- (7) If revoking a commission, an order that the respondent immediately destroy or deface all notary public seals in accordance with Government Code section 8207.
- (8) If imposing sanctions on a notary public who has resigned his or her commission or whose commission has expired, an order reciting findings of fact and stating the conclusion that the facts would have constituted grounds for suspension or revocation of the commission if the commission had still been in effect, pursuant to Government Code section 8214.4.

THE NOTARY PUBLIC DISCIPLINARY HEARING PROCESS

Every notary public applicant and commissioned notary public is entitled to a hearing before an administrative law judge before an application is denied or a commission is suspended, revoked, or a civil penalty is imposed.

Hearings before an administrative law judge are conducted according to the Administrative Procedures Act, which is found in the Government Code beginning at section 11500.

If the Secretary of State concludes that the laws governing the conduct of notaries public or those applying to be notaries public have been violated, the Secretary of State will notify the notary public applicant or commissioned notary public in writing detailing the specific charges and laws violated. If an applicant's application is denied, the formal reasons are called a Statement of Issues. If a notary public's commission is to be suspended or revoked or a civil fine imposed, the document is called an Accusation. Both are provided to the applicant or notary public (served) by certified mail from the Secretary of State.

Once a Statement of Issues or Accusation is served on the applicant or notary public, the applicant or notary public is then referred to as the respondent. The respondent may choose to challenge or contest the charges by requesting a hearing. If the respondent wishes to have a hearing on the charges, the respondent must send a Notice of Defense to the Secretary of State within 15 days. Or, if the respondent decides not to contest the Secretary of State's charges, a default decision is written by the Secretary of State containing the specific charges and laws that were violated as outlined in either the Statement of Issues or the Accusation served on the respondent.

If the respondent decides to have a hearing, an attorney in the Secretary of State's office is assigned to represent the agency's interests in the case. The respondent may either represent himself or herself or be represented by an attorney retained by the respondent. The attorney for the Secretary of State will review the case and may enter into discussions with the respondent's attorney, or the respondent if the respondent does not retain an attorney, to resolve the case by mutual agreement or stipulation without a hearing.

If no agreement can be reached, the case proceeds to a hearing. Hearings are held at several locations in California and the respondent is notified of the date, time, and location well in advance of the hearing in order to allow time for preparation. The respondent, as well as the Secretary of State, may be required to exchange evidence to be presented at the hearing beforehand, which is called discovery.

At the hearing, the Secretary of State, represented by its attorney, will present evidence in the form of documents or testimony from witnesses to demonstrate the charges against the respondent. The respondent or respondent's attorney may examine all documents presented and may ask questions of any witness. When challenging the Secretary of State's denial of an application, the burden of demonstrating that the respondent meets the requirements for a notary public commission (including the respondent's honesty, credibility, truthfulness and integrity) is on the respondent. When revoking or suspending an existing notary public commission, the burden of demonstrating the substance of the charges against the respondent is on the Secretary of State. The administrative law judge will rule on all matters disputed or raised by either side during the hearing.

After the Secretary of State presents its initial evidence, the respondent or respondent's attorney may present any relevant evidence he or she wishes to dispute the charges raised by the Secretary of State. The attorney for the Secretary of State may also examine any documents presented or question any witness. Respondent's guilt for criminal convictions may not be relitigated in an administrative proceeding. The record of a criminal conviction conclusively establishes the fact of conviction and reliance on that fact in the administrative proceeding is proper when the criminal offense has a substantial relationship to the qualifications, functions or duties of a notary public.

The administrative law judge generally will not decide the case on the day of the hearing. The judge will issue a written proposed decision about a month after the hearing and both the respondent and Secretary of State will receive a copy of the proposed decision.

SECRETARY OF STATE REVIEW AFTER HEARING

Pursuant to Government Code section 11517, the Secretary of State may review a contested case. The Secretary of State's review begins within 100 days of receiving a proposed decision from an administrative law judge in a contested case. During that period, the Secretary of State may adopt, change, or reject the proposed decision from the administrative law judge.

If the Secretary of State rejects a proposed decision, the Secretary of State may decide the contested case on the record. A copy of the record will be made available to the respondent at cost.

If the Secretary of State rejects the proposed decision of the administrative law judge and elects to decide the case on the record, the Secretary of State will notify the respondent in writing of the opportunity to present written argument. The respondent has up to 30 days from the mailing of the notification to provide additional written argument to the Secretary of State.

The Secretary of State will then decide the case based on the record and any written argument presented by the respondent. The Secretary of State will issue a final decision not later than 100 days after the rejection of the proposed decision of the administrative law judge. If the Secretary of State has ordered a transcript of the proceedings before the administrative law judge, the Secretary of State's final decision will be issued not later than 100 days after the receipt of the transcript of the proceedings. The Secretary of State may find that special circumstances require a delay in issuing the final decision and upon such a finding will issue an order delaying the decision for no more than an additional 30 days, which also will specify the reasons for the delay.

The Secretary of State's final decision will be filed immediately as a public record and a copy will be served by the Secretary of State on the respondent and his or her attorney, if any.

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PETITION FOR RECONSIDERATION

Pursuant to Government Code section 11521, the Secretary of State may order reconsideration of all or part of a case on the motion of the Secretary of State or on petition of any party to the proceeding. To petition for reconsideration, a party must submit a written request to the Secretary of State within the statutory allotted time. The Secretary of State shall not grant a petition for reconsideration unless the petition contains evidence and argument in support of the petition that provides a basis for the Secretary of State to reconsider the case and that could not have been presented at the time of the hearing before the administrative law judge. Any evidence or argument supporting the petition must be submitted to the Secretary of State in writing. Oral evidence or argument will not be accepted.

The power of the Secretary of State to order a reconsideration shall expire thirty (30) calendar days after the mailing of a decision to the respondent, or on the date set by the Secretary of State as the effective date of the decision if that date occurs prior to the expiration of the 30day period or at the termination of a stay of not to exceed 30 days which the Secretary of State may grant for the purpose of filing an application for reconsideration. A letter to the respondent, accompanying the decision, shall specify the time in which a petition for reconsideration must be submitted. If the Secretary of State requires additional time to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, the Secretary of State may grant a stay of that expiration for no more than ten (10) calendar days for the sole purpose of considering the petition. If the Secretary of State does not act within the allotted time period for ordering reconsideration, the petition shall be deemed denied.

Pursuant to Government Code section 11521(b), the case may be reconsidered by the Secretary of State on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Government Code section 11517.

In accordance with Government Code section 11523, judicial review may be sought by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. Except as otherwise provided, the petition for a writ of mandate shall be filed with the court within thirty (30) calendar days after the last day on which reconsideration may be ordered by the Secretary of State. The right to petition for judicial review shall not be affected by the failure of petitioner to seek reconsideration before the Secretary of State.

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DEFAULTS AND UNCONTESTED CASES

Pursuant to Government Code section 11520, the Secretary of State may vacate the default decision and grant a hearing on a showing of good cause. Good cause includes, but is not limited to, any of the following:

- (1) Failure of the person to receive notice served pursuant to Government Code section 11505.

Note: Failure of the respondent to receive the accusation or statement of issues and accompanying information when notice was served to the respondent at the latest address on file with the Secretary of State and the respondent failed to notify the Secretary of State of an address change is not grounds to vacate the default decision.

- (2) Mistake, inadvertence, surprise, or excusable neglect.

To request that the default decision be vacated and a hearing be granted, the respondent must serve a written motion to the Secretary of State within seven (7) days after service on the respondent of the default decision. The Secretary of State shall not vacate the default decision and grant a hearing unless the written motion contains evidence and argument in support of the written motion that provide a showing of good cause and a basis for the Secretary of State to reconsider the case.

A letter to the respondent, accompanying the default decision, shall specify the time in which a written motion must be submitted. The power of the Secretary of State to vacate the default decision and grant a hearing shall expire seven (7) calendar days after the mailing of the default decision to the respondent.

REINSTATEMENT OR REDUCTION OF PENALTY

Pursuant to Government Code section 11522, a person whose commission as a notary public has been revoked or suspended may petition the Secretary of State for reinstatement of the commission or reduction of penalty after a period of not less than one (1) year has elapsed from the effective date of the decision or from the date of the denial of a similar petition.

If the petitioner's commission was suspended and has, or would have expired within six (6) months of the date the Secretary of State receives the petition, or was revoked, any Petition for Reinstatement as a Notary Public or Petition for Reinstatement as a Notary Public and Reduction in Penalty shall be treated as a request for a new notary public commission. If the petition is granted, the terms and conditions of the reinstatement shall require the petitioner to (i) complete and submit a Notary Public Application along with the required photograph and fee and (ii) meet all the applicable requirements of Government Code sections 8201 and 8201.1 and California Code of Regulations, title 2, sections 20800.5 and 20803 prior to issuance of a new notary public commission.

PETITION FOR REINSTATEMENT OR REDUCTION OF PENALTY

A person may petition for reinstatement of a revoked or suspended commission, or for a reduction in penalty, by filing a petition with the Secretary of State within the time prescribed above. The petition shall be entitled “Petition for Reinstatement as a Notary Public,” “Petition for Reduction in Penalty” or “Petition for Reinstatement as a Notary Public and Reduction in Penalty.” The petition shall contain the following information and supplementary documentation:

- (1) The petition caption shall contain the name of the notary public and the Secretary of State’s administrative proceeding case number.
- (2) Any written argument or evidence the petitioner wishes to submit for consideration by the Secretary of State. No oral argument or evidence may be presented by petitioner.

Within 15 calendar days of receiving the petition, the Secretary of State shall send written notice to the California Attorney General of the filing of the petition. Any written argument the Attorney General and complainant’s counsel wish to submit for consideration by the Secretary of State shall be submitted to the Secretary of State within 45 calendar days of the date notice was mailed to the Attorney General. No oral argument may be presented by the Attorney General or by any party.

When considering a petition for reinstatement or reduction in penalty, the primary concern of the Secretary of State is whether the evidence presented by the petitioner relates to his or her rehabilitation. The petitioner has the burden of demonstrating that he or she possesses the necessary and current qualifications and skills to safely perform the duties of a notary public within the scope of the current law. In determining whether to grant a reduction of penalty, the Secretary of State may consider, but is not limited to, the following:

- (1) The original violation(s) for which disciplinary action was instituted against the petitioner:
 - (a) Type, severity, number, and duration of violation(s).
 - (b) Whether the violation(s) involved intent, negligence or other improper conduct.
 - (c) Actual or potential harm to the public, customers or others.
 - (d) Length of time since the violation(s) was committed.
 - (e) Cooperation or lack of cooperation of the petitioner in the

- investigation of the original offense(s).
- (2) Prior actions by the Secretary of State, any state, local or federal agency or court including:
 - (a) Compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanction, including any order of restitution.
 - (b) Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.
 - (c) Legal and regulatory history prior to and since the violation(s).
 - (3) The attitude of the petitioner toward his or her commission of the original violation(s) and in regard to compliance with legal sanctions and rehabilitative efforts.
 - (4) Documented rehabilitative efforts including:
 - (a) Efforts to maintain and/or upgrade professional skills and knowledge through education or other methods.
 - (b) Efforts to establish safeguards to prevent repetition of the original violation(s), including changes or modifications in policies, structure, systems, advertising, or behavior applicable to the performance of the duties and responsibilities of a notary public.
 - (c) Voluntary restitution to those affected by the original violation(s).
 - (d) Participation in appropriate self-help and/or rehabilitative group.
 - (e) Participation in professional organizations or associations.
 - (5) Assessment of the rehabilitative and corrective efforts of the petitioner, including:
 - (a) Whether efforts relate to the original violation(s).
 - (b) Date rehabilitative efforts were initiated.
 - (c) Length of rehabilitative efforts and corrective actions.
 - (d) Whether rehabilitative efforts and corrective actions were voluntary and self-motivated, or imposed by order of a government agency or court and complied with as a term or condition of probation.

- (e) Reputation of the petitioner for honesty, credibility, truthfulness, integrity, professional ability, and good character since the commission of the original violation(s).
 - (f) Nature and status of continuing rehabilitative efforts.
 - (g) Compliance or non-compliance with all laws and regulations since the date of the original violation(s).
 - (h) Cooperation or lack of cooperation of the petitioner in the review conducted by the Secretary of State of the Petition for Reduction of Penalty and the facts surrounding the petition.
- (6) Nothing in these disciplinary guidelines shall be construed to prevent the Secretary of State from considering any other appropriate and relevant material not specified herein in order to assess the Petition for Reinstatement as a Notary Public, Petition for Reduction of Penalty, or Petition for Reinstatement as a Notary Public and Reduction in Penalty.
- (7) Any statements by the petitioner or witnesses submitted in support of the petition are preferred by the Secretary of State to be in the form of an affidavit or declaration rather than merely a letter or unsworn statement.

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