



# ***NOTARY PUBLIC***

Presented by:

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*IASBO Annual Meeting 2010*

# *AGENDA*

- What is a Notary Public?
- Eligibility Requirements
- Duties and Responsibilities
- 10 Guiding Principles
- Prohibited Acts
- Common/Serious Errors
- Liabilities/Penalties for Misconduct
- Becoming a Notary through SOS
- Other One-Stop Application and Bond Filing Options
- Frequently Asked Questions



# *What is a Notary Public?*

- A public officer of the state, authorized by law to certify documents, take affidavits, and administer oaths. (IC 33-42-2-5)
- Appointed for an eight year term.
- Jurisdiction is statewide, but no Notary Public can be compelled to act outside of the Notary's home county.



# *What is a Notary Public?*

- Important as an attestation that the signature(s) on a document have been witnessed and parties identified by an impartial public official.
- Serves to protect all parties by assuring their identities.
- Expected to be impartial, unbiased and without a financial interest in the agreements they notarize.
- To deter fraud, the Notary affixes his/her signature and official seal as an official certification.

# *Eligibility Requirements*

- At least eighteen (18) years of age
- Legal resident of Indiana (IC 33-42-2-1)
- Not hold a lucrative public office or appointment under the government of the United States or the state of Indiana - though civil, school, city and town officials of Indiana may serve as Notaries Public (IC 33-42-2-7)
- Not have been convicted of a crime for which the sentence exceeds six months of imprisonment (IC 5-8-3-1)

# *Duties and Responsibilities*

➤ A notary public shall at the time of signing the certificate of acknowledgement, oath, or instrument, append to the instrument:

1. Date of expiration of his/her commission
2. His/her county of residence
3. Date the instrument was notarized
4. Official seal (IC 33-42-2-9)

➤ Each notary shall print or type his/her name immediately beneath his/her signature on a certificate of acknowledgment, jurat, or other official document, unless his/her name appears in one of the following places:

1. In printed form on the document; or
2. As part of his/her stamp in such form as to be legible when the document is photocopied.

# *Duties and Responsibilities*

- When notarizing documents for the purposes of recording, the notary public must ensure:
  1. Name of each person (typed, printed, or stamped) executing the instrument is immediately beneath the signature.
  2. Person's name written in the body of the instrument matches the signature.
  3. Name of each witness (typed, printed, or stamped) is beneath the signature.
  4. Name of the notary (typed, printed, or stamped) is beneath the signature.
  
- The maximum fee a Notary Public may charge is two dollars (\$2) per individual notarization. (IC 33-42-8-1)

# *Duties and Responsibilities*

- ✦ In the event a notary public does not know the person presenting the instrument for notarization, the notary should do the following:
  1. Ask the person for identification (driver's license), or
  2. Have another person identify the party requesting notarization.
  3. If neither option is available or satisfactory, the notary may ask the person to take an oath as to his/her identity.
  4. If these attempts at identification are unsuccessful, the notary may refuse service for his/her own protection.

# *10 Guiding Principles*



1. The Notary shall, as a government officer and public servant, serve all of the public in an honest, fair and unbiased manner.
2. The Notary shall act as an impartial witness and not profit or gain from any document or transactions requiring a notarial act, apart from the fee allowed by statute.
3. The Notary shall require the presence of each signer and oath-taker in order to carefully screen each for identity and willingness, and to observe that each appears aware of the significance of the transactions requiring a notarial act.
4. The Notary shall not execute a false or incomplete certificate, nor be involved with any document or transaction that the Notary believes is false, deceptive or fraudulent.
5. The Notary shall give precedence to the rules of law over the dictates or expectations of any person or entity.



## *10 Guiding Principles*

6. The Notary shall act as a ministerial officer and not provide unauthorized advice or services.
7. The Notary shall affix a seal on every notarized document and not allow this universally recognized symbol of office to be used by another or in an endorsement or promotion.
8. The Notary shall record every notarial act in a bound journal or other secure recording device and safeguard it as an important public record.
9. The Notary shall respect the privacy of each signer and not divulge or use personal or proprietary information disclosed during execution of a notarial act for other than an official purpose.
10. The Notary shall seek instruction on notarization, and keep current on the laws, practices and requirements of the notarial office.

# *Prohibited Acts*



A Notary Public shall not:

1. Use any other name, other than which the notary has been commissioned.
2. Acknowledge anything in which the notary's name appears as a party to the transaction.
3. Acknowledge or administer the oath to any person whom the notary actually knows
  - a. Has been adjudged mentally incompetent by the court; and
  - b. Is under the guardianship of another.
4. Acknowledgment of any person who is blind, without first reading the instrument to the blind person.
5. Acknowledgment of any person who does not speak/understand the English language, unless is translated into a language that the person does speak/understand.

# *Prohibited Acts*

A Notary Public shall not:

6. Acknowledge the execution of the following:
  - a. An affidavit, unless the person acknowledges the truth of the statements in the affidavit; or
  - b. An instrument, unless the person who executed the instrument does the following:
    - i. Signs the instrument before the notary; or
    - ii. Affirms to the notary that the signature on the instrument is the person's own.
7. Affix his/her name or signature to a blank certificate, affidavit, or acknowledgement and deliver that form to another person with intent for the document to be authenticated.
8. Post-date or antedate any document.
9. Exceed the scope of the duty of a notary by preparing or filling in blanks of legal documents.

# *Common/Serious Errors*

➤ The most common errors are:

1. Failing to attach the notary seal
2. Neglecting to attach the notary public's date of expiration of appointment
3. Failing to sign the notarized document
4. Omitting names and dates from the acknowledgments, oaths and affirmations, etc.

➤ The most serious error is:

Failure to require the person to appear before the notary before notarizing the document. The person who signs the document must always appear in person.

# *Liabilities/Penalties* *for Misconduct*



- Failure to require the person to appear before the notary.
- Failure to carry out notary duties correctly.
- If the notary's error enables a forgery, false writing, or other crime to occur.
- Failure to attach the date of notary's expiration.

Can result in criminal/civil liability, the loss of commission, up to and including a Class C misdemeanor infraction.

# *Becoming a Notary Public* *through S.O.S.*

1. Obtain an application from the Secretary of State's office at: <http://www.in.gov/sos/business>
2. Secure an official bond with freehold or corporate security, approved by the Secretary of State, in the sum of five thousand dollars (\$5000).
  - The bond shall be conditioned upon the faithful performance and discharge of duties of the office of the notary public, for the use by any person injured by a breach of the notary's duties. (IC 33-42-2-1)
  - Includes 8 years Errors & Omissions Insurance of \$5000.

# *Becoming a Notary Public* *through S.O.S.*

3. Each application requires a five dollar (\$5) fee. Fees are payable by check or money order.
4. A seal must be used in all official acts of the notary public.

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***COMING SOON:***

***Notary Applications, Revisions, and New  
Training Module available ONLINE***

# **Other One-Stop Application and Bond Filing Options**

- ✦ American Association of Notaries  
<http://www.indiananotary.com>
- ✦ National Notary Association  
<http://www.nationalnotary.org/howto/>
- ✦ Notary of America  
<http://www.notaryofamerican.com>

# The State of Indiana



**Know Ye** ~~Know Ye~~ THAT IN THE NAME AND BY THE AUTHORITY OF  
THE STATE OF INDIANA, I DO HEREBY APPOINT AND COMMISSION AS

## A Notary Public

LISA R. ZACHARY  
14910 STATE ROAD 23  
GRANGER, INDIANA 46530

WITHIN AND FOR THE COUNTY OF ST. JOSEPH  
AND THE STATE OF INDIANA  
FROM SEPTEMBER 1, 2009 UNTIL AND EXPIRING ON AUGUST 31, 2017



### In Testimony Whereof

I HAVE HEREUNTO SET MY HAND AND  
CAUSED TO BE AFFIXED THE SEAL OF THE  
STATE, AT THE CITY OF INDIANAPOLIS,  
ON SEPTEMBER 1, 2009

MITCHELL E. DANIELS, JR. - GOVERNOR

*Mitchell Daniels*

TODD ROKITA - SECRETARY OF STATE.

*Todd Rokita*

# *Frequently Asked Questions*

➤ Q. May I notarize my own signature and the signatures of my spouse, children, parents, or other relatives?

*A. A notary public may not notarize his/her own signature, but may notarize the signatures of his/her spouse, children, parents, or other relatives.*

➤ Q. Should I keep a log book of notarizations which I perform?

*A. There is no statutory requirement in Indiana that a notary public keep a log book or journal. However, it is recommended that you keep one for your own records and protection from liability.*



# *Frequently Asked Questions*

➤ Q. Can my employer keep my Notary Stamp and Commission Paper after I leave my job?

*A. No. A notary commission is personal to the notary public. The stamp and commission belong to the notary public and must be safeguarded by the notary in order to prevent forgeries and other misuse. Even if an employer pays for the notary commission and/or bond, the employer cannot convert the stamp and journal or cancel the bond.*

➤ Q. How do I report a change in my name, address, or seal while I am serving as a notary public?

*A. A notary public must report the change to the Secretary of State on a form supplied by that office. (IC 33-42-2-8)*