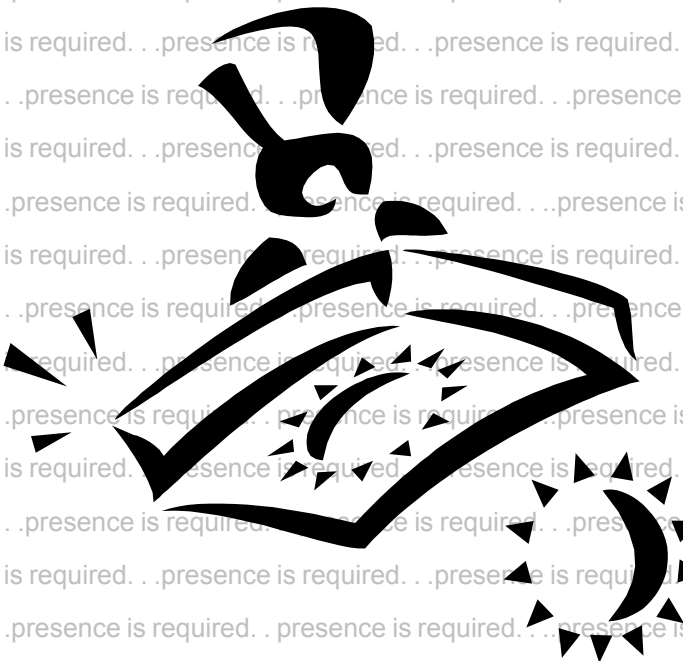


Kansas Notary Public Handbook



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I. Basic Notary Public Information

As a notary public, you hold an important position in the state of Kansas. It is essential that you understand the notary duties and responsibilities given in Kansas law. The purpose of this handbook is to help you understand notary laws so that you can perform your duties correctly.

The purpose of a notary public is to prevent fraud and forgery. The notary acts as an official, unbiased witness to the identity of the person who signs the document. A Kansas notary public has six major duties:

1. Take acknowledgments,
2. Administer oaths and affirmations,
3. Take a verification upon oath or affirmation,
4. Witness or attest a signature,
5. Certify or attest a copy and
6. Note a protest of a negotiable instrument.

(K.S.A. 53-107)

Acknowledgment

If the document requires an acknowledgment, the person must personally appear before you and acknowledge to you that he or she signed the document.

Verification

If the document requires a verification, the person must personally appear before you and be administered the appropriate oath, and sign the document in your presence.

Witnessing

If the document requires witnessing or attesting, the person must personally appear before you and sign the document in your presence.

Certified Copy

A notary public can certify a copy only if the notary personally has custody of the original document and makes the copy from the original.

Protest of a Negotiable Instrument

This notary duty is outdated and is no longer required.

Compliance with these legal requirements is important to assure the signing party that his or her document will be legally effective, and to eliminate any liability for the notary public.

II. Guidelines for Notaries Public

For your convenience, the statutory provisions relating to notaries are summarized below:

Personal Appearance Required

All notary acts require that the person signing the document appear before the notary public. **Never notarize a document outside the presence of the signing party.** A notary is required to properly identify the person to ensure that he or she signed the document; the only way to perform this duty is to have the person appear before you. Failure to require a personal appearance by the signing party is the leading cause of notary civil and criminal liability and loss of the notary commission. (K.S.A. 53-503)

Notary Seal; Signature; Date of Expiration

Each notary public must have a notarial seal, which shall contain the notary's name exactly as it appears on the notary application. The seal must include the words "Notary Public" and "State of Kansas." This seal should be used whenever a notary performs an official act. When notarizing a document, the notary public must add to the document the date of expiration of his or her appointment. The notary public's seal must be either a seal press or a rubber stamp. If a seal press, the impression from the seal must be inked or blackened. If a rubber stamp, the stamp must have permanent ink. Both the seal press and the rubber stamp must be capable of legible reproduction after copying. No seal can be used until an impression of it has been filed with the Secretary of State's Office. (K.S.A. 53-105)

Failure to Attach Date of Expiration

If the notary public willfully neglects or refuses to attach his or her date of expiration of appointment when notarizing a document, the notary public shall be deemed guilty of a class C misdemeanor. (K.S.A. 53-106) Failure to attach the date of expiration may also be grounds for revocation of the notary's appointment. (K.S.A. 53-118)

Powers and Duties; Verification of Identity

A notary public in the state of Kansas has the authority to take acknowledgments, administer oaths and affirmations, and perform other acts permitted by law. When notarizing a document, the notary public must exercise reasonable care in determining the identity of the person whose signature is being notarized. This is important because, by completing

the notarization requirements (K.S.A. 53-105), the notary makes it possible for the public to rely on the authenticity of the person's signature on the document. (K.S.A. 53-107)

Financial or Beneficial Interest

A notary public can not perform any notarial act if the notary has a direct financial or beneficial interest in the transaction. A notary public has a direct financial interest if the notary is named individually as a principal to the financial transaction. If the transaction involves real property, the notary has direct financial or beneficial interest if named individually as a party to the transaction (i.e., grantor, grantee, mortgagor, mortgagee, etc.) A notary public does not have any financial or beneficial interest in a transaction when the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow agent or lender for a person having a direct financial or beneficial interest.

Change of Name, Address, Phone Number, or Seal

If a notary public legally changes his or her name, the notary public must obtain a new notary seal. The seal must meet all the requirements of the previous seal, but shall contain the new name of the notary public on it, in place of the previous name. Before performing any notarial acts, the notary public must mail or deliver to the Secretary of State a notice of the change in name. The notice shall include an impression of the new seal and a specimen of the notary's new signature. In addition to a change in the notary public's name, if the notary public changes his or her seal for any reason, the notary public shall mail or deliver the impression of the new seal to the Secretary of State's office. A notary public must notify the Secretary of State's office within 30 days after any

such change. The notification forms will be supplied by the Secretary of State's office upon request. A copy is attached in the back of this handbook. (K.S.A. 53-114)

Resignation of Notary Public Appointment

If a notary public no longer wants to be a notary public in Kansas, he or she shall send a letter of resignation to the Secretary of State. (K.S.A. 53-116)

Reappointment

A notary public is not automatically renewed or reappointed. A notary public must reapply for a notary commission every four years. A new application may be submitted one month before the expiration date. It is important to renew early so that the commission does not expire because a notary public cannot perform notary duties after the commission has expired. The notary may want to reapply early to keep the same expiration date.

Refusal or Revocation of Appointment

The Secretary of State may refuse to appoint any person as a notary public or may revoke the appointment of any notary public upon the following grounds: (1) A material misstatement or omission in the application; (2) conviction of a felony or a lesser offense involving moral turpitude or of a nature that would be incompatible with the duties of a notary public; a plea of *nolo contendere* is deemed a conviction; (3) revocation, suspension or denial of a professional license if such action could substantially relate to the duties of a notary public; (4) applicant or notary is or becomes incapable of reading or writing the English language; or (5) a notary fails to exercise the powers and duties of a notary public in accordance with the statutes. Any person whose notary public appointment

has been revoked may not apply for another appointment until four years from the date of revocation. (K.S.A. 53-118)

Oaths or Affirmations

All oaths must be administered with the person's right hand either uplifted or upon the Holy Bible. (K.S.A. 54-102) An oath must begin with "You do solemnly swear" and conclude with "So help you God." A person having religious or conscientious objections to oaths may affirm. An affirmation must begin with "You do solemnly, sincerely and truly declare and affirm" and conclude with "And this you do under the pains and penalties of perjury." (K.S.A. 54-103, 54-104)

III. Questions and Answers

1. What is a Kansas Notary Public?

A Kansas notary public is a person appointed by the Kansas Secretary of State to acknowledge and witness the signing of documents, administer oaths and affirmations, take verifications, and certify copies.

2. When may I begin notarizing documents?

An appointed notary public may begin notarizing documents after receipt of a certificate of appointment from the Secretary of State.

3. What types of notary seals are acceptable in Kansas?

The notary public's seal shall either be a seal press or a rubber stamp. In either case, the notary public's seal must contain the notary public's name, and the words "Notary Public" and "State of Kansas." If a seal press is used, the impression must be inked or blackened so that it may be photocopied.

4. What is the difference between commercial sureties and personal sureties?

A commercial surety is a surety that has been licensed with the Kansas Department of Insurance and actively participates in the surety bond field. A fee is usually charged to the applicant for guaranteeing a bond. Personal sureties may be any two individuals. All sureties guarantee that if the notary public fails to properly perform a notarization they will indemnify a third party for any damages caused by the notary's negligence or misconduct, up to \$7,500.

5. Can information about my notary application or appointment be given to other people?

Yes. All notary public applications and appointments are required to be open to public inspection pursuant to Kansas law.

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

A notary public may not notarize his or her own signature, but may notarize the signatures of his or her spouse, children, parents or other relatives. However, the power is limited by the provisions of K.S.A. 53-109. The limitations are set out in the general information section under *Financial or Beneficial Interest*.

7. May I notarize documents that originate from out-of-state?

Yes. Documents originating from another state may be notarized as long as you perform the notarial act in Kansas and the notarial certificate indicates "State of Kansas, County of _____" to identify the jurisdiction in which the notarial act took place.

12. Can my employer keep my journal or notary stamp after I leave my job?

No. A notary commission is personal to the notary public. The stamp and journal 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, the employer cannot convert the stamp and journal. However, if the employer provided the notary's bond, the employer can cancel the bond.

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

You must report the change to the Secretary of State on a form supplied by that office. One change of status form is attached in the back of this handbook.

14. What are the most common errors or omissions made by notaries public in notarizing documents?

The most common errors by notaries public in notarizing documents are: (1) Failing to attach the notary seal; (2) neglecting to attach the notary public's date of expiration of appointment; (3) failing to sign the notarized document; (4) omitting names and dates from the acknowledgments, oaths and affirmations, etc.; and (5) failing to properly administer the oath.

15. What is the most serious error made by notaries in notarizing documents?

The most serious error made by notaries is failure to require the person to appear before the notary before notarizing the document. The person who signed the document must always appear in person. Failure to observe this requirement can result in criminal and civil liability and the loss of the notary's commission.

16. What are the liabilities and penalties for notary public misconduct?

A notary public who fails to carry out notary duties correctly may be subject to civil liability for any damages caused by the failure or error. If the notary's error enables a forgery, false writing, or other crime to occur, the notary may also be held criminally liable as an accessory to the crime. The Secretary of State may also revoke the notary's commission. Failure to attach the date of expiration to a notarization is a class C misdemeanor.

17. What if my boss insists that I notarize a document when the person has not signed or acknowledged his or her signature in my presence?

Explain to your boss that Kansas law requires that the person appear before you personally before you can notarize the document. Failure to follow this procedure could result in civil and criminal liability for both you and your boss. Also, the document may be invalidated by a court if it is improperly notarized.

18. If my notary appointment expires but I have applied for a new appointment, may I continue to exercise my notarial powers?

No. There is no carryover or grace period for a notary public once his or her appointment has expired. A person whose notary public appointment has expired may not perform any notarial acts until he or she has received a new certificate of appointment.

19. As a Kansas notary, can I take a person's acknowledgment in another state, then return to Kansas and complete the notarial certificate here?

No. Your authority extends no further than the geographic boundaries of Kansas. You cannot perform one part of a notarial act outside the state and the other part inside the state. Both parts must be executed at the same time and the same place inside Kansas. If the resident of another state cannot come to Kansas, he should find a notary public in his state.

20. A person whose identification indicates a first name of "Robert" has asked me to take his acknowledgment on a document he has signed as "Bob." Should I insist that he sign as "Robert?"

Yes. The notary should insist that a person's signature agree exactly with the name printed on the person's identification -- such as a driver's license -- and the name used on the document.

21. Can I notarize documents that I will be signing as an officer on behalf of a corporation?

No. You can never notarize your own signature, whether you are signing for yourself or for a corporation.

22. May a notary give legal advice or draft legal documents?

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

23. Is notarization required by law?

Notarization is required for many documents. The Kansas law governing the document will state whether the document must be notarized. The determination whether a document is required to be notarized cannot be made by the notary public.

24. How does a notary identify a signer?

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

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

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

26. How do I renew my notary appointment?

There is no automatic reappointment in Kansas. A notary public must apply for appointment and follow the same procedures required for a new appointment. Application should be made sufficiently prior to expiration to ensure uninterrupted authority.

27. Can I only notarize documents in my own county?

A Kansas notary public has authority throughout Kansas. The county in which the notarial act took place should be inserted in the appropriate blank above the notary's signature.

28. Must the person sign the document in my presence?

If the document is an affidavit, verification or other document requiring an oath, the person **must** be properly sworn-in and sign the document in your presence. If the document requires acknowledgment, it is sufficient for the person to appear before you and acknowledge execution of the document. If the document requires witnessing, you must personally see the person sign the document. Never notarize an unsigned document, and never notarize a document outside the presence of the person. Do not notarize a document in which the notarial certificate contains untrue statements. You cannot take a notarization over the telephone (because the person has not appeared in person before you). You cannot notarize a document just because someone else assures you that the signature is genuine. You cannot take an acknowledgment just because you recognize the person's signature.

29. What should I do when I have a question about performing a notarial act?

Contact the Secretary of State's office for assistance or your legal counsel for advice.

30. Where does a person report illegal, improper, or questionable acts by a notary public?

Persons who suspect any wrongdoing or mistake by a notary public should report it to the Kansas Secretary of State, First Floor, Memorial Hall, Topeka, KS 66612-1594, (785) 296-2239 or by email at kssos@kssos.org.

IV. Notarization Forms

Notary forms are given in K.S.A. 53-509. See page 30 for statutory forms. The following forms are sufficient for the purposes indicated, if completed with the information as required by law:

(a) For an acknowledgment in an individual capacity:

State of _____)

County of _____)

This instrument was acknowledged before me on
(date) _____ by name(s) of person(s) .

Signature of notary public

(Seal)

My appointment expires: _____

(b) For an acknowledgment in a representative capacity:

State of _____)
County of _____)

This instrument was acknowledged before me on (date) _____ by name(s) of person(s) as type of authority, e.g., officer, trustee, etc. of name of party on behalf of whom instrument was executed.

Signature of notary public

(Seal)

My appointment expires: _____

(c) For a verification upon oath or affirmation:

State of _____)
County of _____)

Signed and sworn to (or affirmed) before me on (date) _____ by name of person making statement.

Signature of notary public

(Seal)

My appointment expires: _____

(d) For witnessing or attesting a signature:

State of _____)
County of _____)

Signed or attested before me on (date) by name(s)
of person(s).

Signature of notary public

(Seal)

My appointment expires: _____

(e) For attestation of a copy of a document:

State of _____)
County of _____)

I certify that this is a true and correct copy of a
document in the possession of _____.

Dated: _____

Signature of notary public

(Seal)

My appointment expires: _____

V. Kansas Statutes

Notaries Generally

K.S.A. 53-101. Appointment; term; qualifications; not state officer The Secretary of State shall appoint notaries public, who may perform notarial acts in any part of this state for a term of not more than four (4) years, unless sooner removed. Any person who is a citizen of the United States, who is at least eighteen (18) years of age and who is a resident of this state, or who is a resident of a state bordering on this state and who regularly carries on a business or profession in this state or who is regularly employed in this state, shall be eligible to be appointed as a notary public as provided in this act. Notaries public shall not be considered as state officers.

K.S.A. 53-102. Requirements for appointment

Every person, before entering upon the duties of a notary public, shall file with the Secretary of State an application for appointment as a notary public, which shall also include an oath of office and a good and sufficient bond to the state of Kansas in the sum of seven thousand five hundred dollars (\$7,500), with one or more sureties to be approved by the Secretary of State. The bond shall be conditioned upon the faithful performance of all notarial acts in accordance with law. Every person, before receiving appointment as a notary public, shall also file with the Secretary of State the official signature and an impression of the seal to be used by the notary public.

K.S.A. 53-103. Forms Forms for applications, bonds and oaths of office shall be furnished by the Secretary of State.

K.S.A. 53-104. Filing and fees Such application, bond, oath and record of appointment shall be filed in the office of the Secretary of State and properly indexed in that office. The Secretary of State shall receive a fee of \$10 (plus a \$15 administrative fee pursuant to Senate Bill 239) for such services.

K.S.A. 53-105. Seal Every notary public shall provide a notarial seal containing such notary's name exactly as it appears on the application for appointment as a notary public, and the words "notary public" and "State of Kansas" or words of like import indicating statewide notarial authority, approved by the Secretary of State. Such seal shall authenticate all official acts, attestations and instruments therewith. Every notary public shall add to such notary's official signature the date of expiration of appointment as a notary public. The seal of every notary public shall be either a seal press and the impression thereof inked or blackened or a rubber stamp to be used with permanent ink so that any such seal may be legibly reproduced by photographic process. No notary public shall use either such seal unless an impression thereof has been filed in the office of the Secretary of State.

K.S.A. 53-105a. Certificate of appointment

Upon receipt of a completed application with sufficient corporate bond, an oath of appointment, the correct fee, the official signature and an impression of the seal to be used by such notary public, the Secretary of State, if satisfied the applicant is qualified to be appointed as a notary public, shall prepare a certificate of appointment for the applicant and forward the appointment to the applicant's residence. Each certificate of appointment shall contain at least the applicant's name and the date upon which the appointment shall expire.

K.S.A. 53-106. Penalty If any notary public shall willfully neglect or refuse to attach to the notary's

official signature the date of expiration of appointment . . . the notary shall be deemed guilty of a class C misdemeanor.

K.S.A. 53-107. Powers and duties Notaries public shall have authority to: (1) Take acknowledgments; (2) administer oaths and affirmations; (3) take a verification upon oath or affirmation; (4) witness or attest a signature; (5) certify or attest a copy; (6) note a protest of a negotiable instrument; and (7) perform any other act permitted by law.

K.S.A. 53-109. Prohibited acts (a) 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. (b) For the purposes of this act, a notary public has a direct financial or beneficial interest in a transaction if the notary public: (1) With respect to a financial transaction, is named, individually, as a principal to the transaction; (2) 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. (c) For purposes of this act, a notary public has no direct financial or beneficial interest in a transaction when the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow agent or lender for a person having a direct financial or beneficial interest in the transaction.

K.S.A. 53-113. Statute of limitations No suit shall be instituted against any such notary or his or her securities more than three years after the cause of action accrues.

K.S.A. 53-114. Change of name or seal (a) If a notary public changes name by any legal action, such notary shall obtain a new notary seal which meets the requirements established by K.S.A. 53-105, and the seal shall contain the new name of the notary. Prior to performing any acts as a notary public after such

change, the notary shall mail or deliver to the Secretary of State notice of the change of name which shall include a specimen of the new seal and a specimen of the notary's new official signature. (b) If a notary public obtains a new seal for any reason, the notary shall mail or deliver to the Secretary of State notice of the change of seal which shall include an impression of the new seal. (c) Such notification. . . shall be made on forms provided by the Secretary of State within thirty (30) days after such change has occurred.

K.S.A. 53-115. Cancellation of bond No surety on a notary public's bond shall cancel such bond without giving written notice thereof to the Secretary of State. Fourteen (14) days after receipt of such notice by the Secretary of State, said surety shall no longer be liable on such bond. Whenever the Secretary of State receives notice of a surety's intention to cancel a notary's bond, said Secretary of State shall notify the affected notary public that unless such notary files another good and sufficient surety bond with the Secretary of State on or before the cancellation date of such notary public's surety bond, then such notary will no longer be authorized to perform notarial acts within this state.

K.S.A. 53-116. Resignation from appointment

If a notary public no longer desires to be a notary public in this state, the notary shall send immediately by mail or deliver to the Secretary of State a letter of resignation informing the Secretary of State of the notary's desire to resign as a notary public in the state of Kansas. The appointment of the notary shall thereupon cease to be in effect.

K.S.A. 53-117. Reappointment No person may be automatically reappointed as a notary public.

K.S.A. 53-118. Grounds for refusal and revocation of appointment by Secretary of State (a) The Secretary of State may refuse to appoint any person as a notary

public or may revoke the appointment of any notary public upon any of the following grounds: (1) substantial or material misstatement or omission in the application submitted to the Secretary of State; (2) conviction of a felony or of a lesser offense involving moral turpitude or 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 subsection; (3) revocation, suspension or denial of a professional license, if such revocation, suspension or denial was for misconduct, dishonesty or any cause substantially relating to the duties or responsibilities of a notary public; (4) cessation of United States citizenship; (5) incapacitation to such a degree that the person is incapable of reading or writing the English language; (6) failure to exercise the powers and duties of a notary public in accordance with this act. (b) Any person whose notary public appointment has been removed may not apply for an appointment until the expiration of four years from the date of removal of such appointment.

Uniform Law on Notarial Acts

K.S.A. 53-502. Definitions As used in this act:

(a) “Notarial act” means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument.

(b) “Acknowledgment” means a declaration by a person that the person has executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(c) “Verification upon oath or affirmation” means a declaration that a statement is true made by a person upon oath or affirmation.

(d) “In a representative capacity” means:

(1) For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee or other representative;

(2) as a public officer, personal representative, guardian or other representative, in the capacity recited in the instrument;

(3) as an attorney in fact for a principal; or

(4) in any other capacity as an authorized representative of another.

(e) “Notarial officer” means a notary public or other officer authorized to perform notarial acts.

K.S.A. 53-503. Notarial acts (a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory

K.S.A. 53-504. Notarial acts in this state; who may perform. (a) A notarial act may be performed within this state by the following persons:

(1) A notary public of this state;

(2) a judge, clerk or deputy clerk of any court of this state;

(3) a county clerk or deputy county clerk;

(4) an election commissioner or assistant election commissioner; or

(5) any other person authorized to perform the specific act by the law of this state.

(b) Notarial acts performed within this state under federal authority as provided in K.S.A. 53-506, and amendments thereto, shall have the same effect as if performed by a notarial officer of this state.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

K.S.A. 53-505. Notarial acts in other jurisdictions of the United States.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district or possession of the United States by any of the following persons:

- (1) A notary public of that jurisdiction;
- (2) a judge, clerk or deputy clerk of a court of that jurisdiction; or
- (3) any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in K.S.A. 53-506 have the same effect as if performed by a notarial officer of this state.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(d) The signature and indicated title of an officer listed in subsection (a)(1) or (a)(2) conclusively establish the authority of a holder of that title to perform a notarial act.

K.S.A. 53-506. Notarial acts under federal authority.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

- (1) A judge, clerk or deputy clerk of a court;
- (2) a commissioned officer on active duty in the military service of the United States;
- (3) an officer of the foreign service or consular officer of the United States; or
- (4) any other person authorized by federal law to perform notarial acts.

(b) The signature and title of a person performing a

notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(c) The signature and indicated title of an officer listed in subsection (a)(1), (a)(2) or (a)(3) conclusively establish the authority of a holder of that title to perform a notarial act.

K.S.A. 53-507. Foreign notarial acts. (a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multi-national or international organization by any of the following persons:

- (1) A notary public or notary;
- (2) a judge, clerk or deputy clerk of a court of record;
- (3) any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) An "Apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(c) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(d) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

(e) An official stamp or seal of an officer listed in subsection (a)(1) or (a)(2) is prima facie evidence that a person with the indicated title has authority to

perform notarial acts.

(f) If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

K.S.A. 53-508. Certificate of notarial acts (a) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of office. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of subsection (a) and it:

(1) Is in the short form set forth in K.S.A. 53-509;
(2) is in a form otherwise prescribed by the law of this state;

(3) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by K.S.A. 53-503.

K.S.A. 53-509. Short forms The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section (a) of K.S.A. 53-508:

(a) For an acknowledgment in an individual capacity:

State of _____)
(County) of _____)

This instrument was acknowledged before me on _____ (date)
by _____ [name(s) of person(s)] _____

(Signature of notarial officer)

Title (and Rank)

(Seal, if any) [My appointment expires: _____]



(b) For an acknowledgment in a representative capacity:

State of _____)
(County) of _____)

This instrument was acknowledged before me on _____
(date)
by _____ [name(s) of person(s)] _____
as _____ (type of authority, e.g., officer, trustee, etc.) _____
of _____ (name of party on behalf of whom
instrument was executed) _____

(Signature of notarial officer)

Title (and Rank)

(Seal, if any) [My appointment expires: _____]



(c) For a verification upon oath or affirmation:

State of _____
(County) of _____

Signed and sworn to (or affirmed) before me on _____
(date)

by _____ [name(s) of person(s) making statement]

(Signature of notarial officer)

Title (and Rank)

(Seal, if any) [My appointment expires: _____]



(d) For witnessing or attesting a signature:

State of _____
(County) of _____

Signed or attested before me on _____ (date)

by _____ [name(s) of person(s)]

(Signature of notarial officer)

Title (and Rank)

(Seal, if any) [My appointment expires: _____]



(e) For attestation of a copy of a document:

State of _____
(County) of _____

I certify that this is a true and correct copy of a document
in the possession of _____

Dated: _____

(Signature of notarial officer)

Title (and Rank)

(Seal, if any) [My appointment expires: _____]

Oaths and Affirmations

K.S.A. 54-101. Officers authorized to administer oaths Notaries public, judges of courts in their respective jurisdictions, mayors of cities and towns in their respective cities and towns, clerks of courts of record, county clerks and registers of deeds, are hereby authorized to administer oaths pertaining to all matters wherein an oath is required.

K.S.A. 54-102. How administered All oaths shall be administered by laying the right hand upon the Holy Bible or by the uplifted right hand.

K.S.A. 54-103. Persons having conscientious scruples Any person having conscientious scruples against taking an oath may affirm with like effect.

K.S.A. 54-104. Form of commencement and conclusion of oaths All oaths shall commence and conclude as follows: "You do solemnly swear," etc.; "So help you God." Affirmations shall commence and conclude as follows: "You do solemnly, sincerely and truly declare and affirm," etc.; "And this you do under the pains and penalties of perjury."

K.S.A. 54-105. Falsifying oaths or affirmations All oaths and affirmations alike subject the party who shall falsify them to the pains and penalties of perjury.

VI. Glossary of Terms

Acknowledge — The act of admitting or recognizing the existence and authenticity of the contents of an instrument, and that the instrument shall be binding and in full force and effect.

Acknowledgment — The act of admitting and recognizing the contents of a document, the person's execution of the document, and that the instrument is binding.

Affiant — The person who takes an oath or affirmation. The person to whom an oath or affirmation is administered.

Affidavit — A statement or declaration reduced to writing, and sworn to or affirmed before a notary or other officer who has authority to administer an oath or affirmation.

Affirm — See Oath.

Affirmation — Spoken promise that the contents of the document are true, without requirement of swearing under oath to God. An affirmation is made by a person having conscientious or religious objections to oaths. An affirmation in Kansas begins with "You do solemnly, sincerely and truly declare and affirm" and concludes with "And this you do under the pains and penalties of perjury."

Certified Copy — A document verified as an accurate reproduction of an original document.

Competence — Ability to understand.

Document — A paper on which writing or printing appears in a legal form, agreement or contract. Also called an instrument.

Execute — To sign one's name. To perform, complete or accomplish.

Instrument — See Document.

Notarial Certificate— The statement that appears at the end of a document that is completed and signed by the notary public. This statement indicates the venue, the type of notarization required (acknowledgment, verification, witnessing), the name of the signing party, and the date of the notarization.

Notary Bond — An agreement called a bond is signed by the notary (called the principal) and either a surety company or two individual sureties. The surety company or individuals agree to indemnify or reimburse anyone who suffers damage caused by the notary public’s improper performance of notarial acts up to the amount of the bond (\$7,500). The surety can demand reimbursement from the notary if a claim is properly paid. Furthermore, the notary is personally liable for the full amount of any judgment rendered against the notary.

Notary Public — A person appointed by the Kansas Secretary of State to serve the public as a disinterested witness who takes acknowledgments and verifications, witnesses signatures, administers oaths and affirmations and certifies copies.

Notary Seal — The imprint or embossment made by the seal of a notary.

Oath — An oath is a sworn statement made before a notary or other authorized officer. In Kansas, an oath begins with “You do solemnly swear” and concludes with “So help you God” and is made with the right hand uplifted or placed upon the Holy Bible.

Sworn — See Oath.

Venue — The location where the notarization was performed, as indicated at the top of the notarial certificate (state, county).

VII. Test Your Notarial IQ

Test your notarial I.Q. with this pop quiz. Answers follow the quiz. More detailed explanations are found elsewhere in the handbook.

1. Your employer asks you to “notarize” a document that was signed by a customer while you were at lunch. You should:

(a) Ask your employer to swear that the customer whose name appears on the document really signed it.

(b) Call the customer to ask if he really did sign the document.

(c) Explain that you cannot notarize a document when the customer did not personally appear before you.

(d) “Notarize” the document only if you personally know the customer and recognize the signature.

2. Your wife, the sole owner of a used car lot, has asked you to “notarize” her signature transferring title of an automobile. You are not named individually as a party to the transaction. You may “notarize” the document.

True or False.

3. You have been asked to administer an oath for a person signing an affidavit. You must ask the person to:

(a) Provide adequate identification (if you do not know the person).

(b) Either raise his or her right hand or place it upon the Holy Bible.

(c) Either swear or affirm using the statutory language.

(d) Do all of the above.

4. A seal press is an acceptable notary seal but its impression must be blackened so that it can be photocopied.

True or False.

5. A notary may not charge more than \$2 to administer an oath.

True or False.

6. To properly identify a person it is sufficient to:

- (a) Examine a driver's license with signature.
- (b) Be casually acquainted with the person.
- (c) Have a person you know identify the person under oath.
- (d) Do any of the above.

7. State law requires a notary to maintain a log of all notarizations performed, showing the date performed, the parties appearing and the type of document.

True or False.

8. A Kansas notary may perform notarial duties anywhere in Kansas as long as the county in which the duty is performed is entered in the appropriate space.

True or False.

9. In order to properly complete the notarial certificate the notary must do which of the following:

- (a) Enter the county where the notarization took place.
- (b) Affix the seal and blacken the impression if a seal press is used.
- (c) Sign and write the date that the notary's appointment expires.
- (d) All of the above.

10. You are a Kansas notary and resident but your place of employment is in Kansas City, Missouri. You may perform notarial acts in Missouri.

True or False.

11. You are a resident of Nebraska but your place of employment is in Kansas. You may become a Kansas notary public.

True or False.

Answers: 1. c; 2. True; 3. d; 4. True; 5. False; 6. d; 7. False;
8. True; 9. d; 10. False; 11. True.



VIII. Notary Public Change of Status Form

Name _____

(Give name under which your appointment is currently listed. Please type or print.)

Please complete the applicable section(s) below. Requirements for reporting this information are discussed in the Notary Public

NOTE: It will speed our procedures if you can furnish the six-digit number which appears on your appointment certificate:

CHANGE OF NAME
NEW NAME: _____
(Please type or print)
NEW SIGNATURE: _____

CHANGE OF SEAL
Give an impression of your new seal in this space:

CHANGE OF ADDRESS
PRIOR ADDRESS: _____ _____
NEW ADDRESS: _____ _____
DAYTIME TELEPHONE: _____

Mail completed form to: Secretary of State, ATTN: Notary Clerk, Memorial Hall, 1st Floor, 120 S.W. 10th Ave., Topeka, KS 66612-1594