

REFERENCE TITLE: **business services; secretary of state**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1230

Introduced by
Senator Reagan: Representative Robson

AN ACT

AMENDING SECTIONS 41-126, 41-311, 41-312, 41-313, 41-316, 41-323, 41-328, 41-332, 41-351, 41-353, 41-355, 41-358, 41-364, 41-366, 44-1449, 44-1460.07 AND 44-1792, ARIZONA REVISED STATUTES; REPEALING TITLE 44, CHAPTER 24, ARIZONA REVISED STATUTES; AMENDING LAWS 2008, CHAPTER 291, SECTION 9, AS AMENDED BY LAWS 2010, CHAPTER 313, SECTION 16; RELATING TO THE SECRETARY OF STATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-126, Arizona Revised Statutes, is amended to
3 read:

4 41-126. Fees; expedited services

5 A. The secretary of state shall receive the following fees:

6 1. Making a copy of any document on file in his office, no more than
7 ten cents for each page or partial page.

8 2. Filing and recording each application to become a notary public and
9 transmitting a commission for a notary public, no more than twenty-five
10 dollars.

11 3. Filing an application for registration or renewal of the
12 registration of a trademark or recording an assignment of a trademark,
13 fifteen dollars.

14 4. Filing an application for registration or renewal of the
15 registration of a trade name or recording an assignment of a trade name, no
16 more than ten dollars.

17 5. Issuing a certificate of registration of a trademark or a trade
18 name, no more than three dollars.

19 6. Filing, as required by the uniform commercial code:

20 (a) A financing statement, no more than three dollars.

21 (b) An amendment to a financing statement, no more than three dollars.

22 (c) An assignment, no more than three dollars.

23 (d) A continuation statement, no more than three dollars.

24 (e) A statement of release, no more than two dollars.

25 (f) A termination statement, no more than two dollars.

26 7. Issuing a certificate as provided in section 44-3146 naming a
27 particular debtor, no more than six dollars.

28 8. Making a copy of a filed financing statement, no more than fifty
29 cents per page.

30 9. Certifying a copy of a writing specified in paragraphs 6, 7 and 8
31 of this subsection, no more than three dollars.

32 10. Filing, recording or certifying any other document not specified in
33 this section, no more than three dollars.

34 11. Filing the oath and bond of notary public, eighteen dollars.

35 12. Issuing a certificate as to official capacity of a notary public
36 and affixing a seal to the certificate, eighteen dollars.

37 B. The secretary of state shall provide for and establish an expedited
38 service for the processing of requests, applications, filings and searches as
39 follows:

40 1. The expedited processing shall be a priority ~~same-day service~~
41 effected in a fast and efficient manner.

42 2. A fee shall be charged for expedited services. This fee shall not
43 exceed twenty-five dollars per service and shall be in addition to any other
44 fees provided by law, including those set forth in subsection A of this
45 section.

1 C. The secretary of state shall adopt rules necessary to carry out
2 subsection B of this section.

3 Sec. 2. Section 41-311, Arizona Revised Statutes, is amended to read:

4 41-311. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Acknowledgment" means a notarial act in which a notary certifies
7 that a signer, whose identity is proven by satisfactory evidence, appeared
8 before the notary and acknowledged that the signer signed the document.

9 2. "Commission" means to authorize to perform notarial acts and the
10 written authority to perform those acts.

11 3. "Copy certification" means a notarial act in which the notary
12 certifies that the notary has made a photocopy of an original document that
13 is neither a public record nor publicly recordable.

14 ~~4. "Identity is personally known" means familiarity with an individual~~
15 ~~resulting from interactions with that person over a sufficient time to~~
16 ~~eliminate reasonable doubt that the individual has the identity claimed.~~

17 ~~5.~~ 4. "Incomplete document" means a document that has not been signed
18 where a signature line is provided or where other obvious blanks appear in
19 the document or that lacks a notarial certificate.

20 ~~6.~~ 5. "Jurat" means a notarial act in which the notary certifies that
21 a signer, whose identity is proven by satisfactory evidence, has made in the
22 notary's presence a voluntary signature and has taken an oath or affirmation
23 vouching for the truthfulness of the signed document.

24 ~~7.~~ 6. "Notarial act" or "notarization" means any act that a notary is
25 authorized to perform under section 41-313.

26 ~~8.~~ 7. "Notarial certificate" or "certificate" means the part of or
27 attachment to a notarized document for completion by the notary that bears
28 the notary's signature and seal and states the **VENUE, DATE AND** facts that are
29 attested by the notary in a particular notarization.

30 ~~9.~~ 8. "Notary public" or "notary" means any person commissioned to
31 perform notarial acts under this article.

32 ~~10.~~ 9. "Oath" or "affirmation" means a notarial act or part of a
33 notarial act in which a person made a vow in the presence of the notary under
34 penalty of perjury, with reference made to a supreme being in the case of an
35 oath.

36 **10. "PERSONAL KNOWLEDGE" MEANS FAMILIARITY WITH AN INDIVIDUAL RESULTING**
37 **FROM INTERACTIONS WITH THAT INDIVIDUAL OVER A SUFFICIENT TIME TO ELIMINATE**
38 **REASONABLE DOUBT THAT THE INDIVIDUAL HAS THE IDENTITY CLAIMED.**

39 11. "Satisfactory evidence of identity" means:

40 (a) Proof of identity is evidenced by one of the following:

41 (i) An unexpired driver license that is issued by a state or territory
42 of the United States.

43 (ii) An unexpired passport that is issued by the United States
44 department of state.

1 (iii) An unexpired identification card that is issued by any branch of
2 the United States armed forces.

3 (iv) Any other unexpired identification card that is issued by the
4 United States government or a state or tribal government, that contains the
5 individual's photograph, signature and physical description and that contains
6 the individual's height, weight, color of hair and color of eyes.

7 (v) The oath or affirmation of a credible person who is personally
8 known to the notary and who personally knows the individual.

9 (vi) The oath or affirmation of a credible person who personally knows
10 the individual and who provides satisfactory evidence of identity pursuant to
11 item (i), (ii), (iii) or (iv) of this subdivision.

12 (vii) Personal knowledge of the individual by the notary.

13 (b) In addition to ~~the provisions of~~ subdivision (a), for the purposes
14 of a real estate conveyance or financing, ~~that~~ proof of identity may be
15 evidenced by one of the following:

16 (i) A valid unexpired passport that is issued by the United States
17 government.

18 (ii) A valid unexpired passport that is issued by a national
19 government other than the United States government and that is accompanied by
20 a valid unexpired visa or other documentation that is issued by the United
21 States government and that is necessary to establish an individual's legal
22 presence in the United States.

23 (iii) Any other valid unexpired identification that is deemed
24 acceptable by the United States department of homeland security to establish
25 an individual's legal presence in the United States and that is accompanied
26 with supporting documents as required by the United States department of
27 homeland security.

28 **12. "VENUE" MEANS THIS STATE AND COUNTY WHERE A NOTARIAL ACT OCCURS.**

29 Sec. 3. Section 41-312, Arizona Revised Statutes, is amended to read:

30 **41-312. Appointment; term; oath and bond; training courses; fee**

31 A. The secretary of state may appoint notaries public in each county
32 to hold office for four years who shall have jurisdiction in the county in
33 which they reside and in which they are appointed. Acknowledgments of
34 documents may be taken and executed and oaths may be administered by a notary
35 public in any county of the state although the commission is issued to the
36 notary public in and for another county.

37 B. The secretary of state shall give notice of the appointment to the
38 person appointed who shall take, within twenty days after receiving such
39 notice, the oath prescribed by law and give a bond, with sureties approved by
40 the state, in an amount prescribed by the secretary of state and file it with
41 the secretary of state. On filing the official oath and bond, the secretary
42 of state shall deliver the commission to such person.

43 C. A notary public is a public officer commissioned by this state and
44 the following apply without regard to whether the notary public's employer or

1 any other person has paid the fees and costs for the commissioning of the
2 notary public, including costs for the official seal and journals:

3 1. A notary public's official seal and commission and any journal that
4 contains only public record entries remain the property of the notary public.

5 2. A notary public may perform notarizations outside the workplace of
6 the notary's employer except during those times normally designated as the
7 notary public's hours of duty for that employer. All fees received by a
8 notary public for notarial services provided while not on duty remain the
9 property of the notary public.

10 3. An employer of a notary public shall not limit the notary public's
11 services to customers or other persons designated by the employer.

12 D. A notary public shall continue to serve until the notary public's
13 commission expires, the notary public resigns the commission, the notary
14 public dies or the secretary of state revokes the commission. An employer
15 may not cancel the notary bond or notary commission of any notary public who
16 is an employee and who leaves that employment.

17 E. A notary public shall comply with all of the following:

18 1. Be at least eighteen years of age.

19 2. Be a citizen or a legal permanent resident of the United States.

20 3. Be a resident of this state for income tax purposes and claim the
21 individual's residence in this state as the individual's primary residence on
22 state and federal tax returns.

23 4. Except as provided in section 41-330, subsection A, paragraph 2,
24 never have been convicted of a felony.

25 5. Keep as a reference a manual that is approved by the secretary of
26 state and that describes the duties, authority and ethical responsibilities
27 of notaries public.

28 6. BE ABLE TO READ AND WRITE ENGLISH.

29 F. An applicant for appointment and commission as a notary public
30 shall complete an application form prescribed by the secretary of state.
31 Except for the applicant's name and business address, all information on the
32 application is confidential and may not be disclosed to any person other than
33 the applicant, the applicant's personal representative or an employee or
34 officer of the federal, state or local government who is acting in an
35 official capacity. The secretary of state shall use the information
36 contained on the application only for carrying out the purposes of this
37 article.

38 G. This state or any of its political subdivisions may pay the fees
39 and costs for the commissioning of a notary public who is an employee of this
40 state or any of its political subdivisions and who performs notarial services
41 in the course of the notary public's employment or for the convenience of
42 public employees.

43 H. The secretary of state may require that applicants ~~attend~~ AND
44 SUSPENDED NOTARIES PRESENT PROOF OF ATTENDANCE AT a notary training course
45 before receiving their commissions OR BEFORE REINSTATEMENT OF A SUSPENDED

1 COMMISSION. ~~and~~ Notaries SHALL attend a notary training course within ninety
2 days before renewing their commissions. The secretary of state may assess a
3 fee prescribed by the secretary of state for administering notary training
4 courses. The secretary of state shall deposit the fees collected in the
5 notary education fund established by section 41-332.

6 Sec. 4. Section 41-313, Arizona Revised Statutes, is amended to read:
7 41-313. Duties

8 A. Notaries public shall perform the following notarial acts, when
9 requested:

- 10 1. Take acknowledgments and give certificates of the acknowledgments
11 endorsed on or attached to the instrument.
12 2. Administer oaths and affirmations.
13 3. Perform jurats.
14 4. Perform copy certification.

15 B. NOTARIES PUBLIC SHALL PERFORM THE NOTARIAL ACTS PRESCRIBED IN
16 SUBSECTION A OF THIS SECTION ONLY IF:

- 17 1. THE SIGNER IS IN THE PRESENCE OF THE NOTARY AT THE TIME OF
18 NOTARIZATION.
19 2. THE SIGNER SIGNS IN A LANGUAGE THAT THE NOTARY UNDERSTANDS.
20 3. THE SIGNER COMMUNICATES DIRECTLY WITH THE NOTARY IN A LANGUAGE THEY
21 BOTH UNDERSTAND.
22 4. THE NOTARIAL CERTIFICATE IS WORDED AND COMPLETED USING ONLY
23 LETTERS, CHARACTERS AND A LANGUAGE THAT ARE READ, WRITTEN AND UNDERSTOOD BY
24 THE NOTARY PUBLIC.

25 C. IF A NOTARY ATTACHES A NOTARIAL CERTIFICATE TO A DOCUMENT USING A
26 SEPARATE SHEET OF PAPER, THE ATTACHMENT MUST CONTAIN A DESCRIPTION OF THE
27 DOCUMENT THAT INCLUDES AT A MINIMUM THE TITLE OR TYPE OF DOCUMENT, THE
28 DOCUMENT DATE, THE NUMBER OF PAGES OF THE DOCUMENT AND ANY ADDITIONAL SIGNERS
29 OTHER THAN THOSE NAMED IN THE NOTARIAL CERTIFICATE.

30 ~~B.~~ D. Notaries public shall:

- 31 1. Keep, maintain and protect as a public record a journal of all
32 official acts performed by the notary as described in section 41-319.
33 2. Provide and keep the official seal that is imprinted in dark ink
34 with the words "notary public", the name of the county in which the notary is
35 commissioned, the name of the notary as it appears on the notarial
36 application, the great seal of the state of Arizona and the expiration date
37 of the notarial commission.
38 3. Authenticate with the official seal all official acts on every
39 certificate or acknowledgment signed and sealed by the notary.
40 4. Respond to any requests for information and comply with any
41 investigations that are initiated by the secretary of state or the attorney
42 general.

1 Sec. 5. Section 41-316, Arizona Revised Statutes, is amended to read:

2 41-316. Fees

3 A. The secretary of state shall establish fees that notaries public
4 may charge for notarial acts. These fees shall be established by rules
5 adopted pursuant to chapter 6 of this title.

6 B. Notaries public may be paid an amount up to the amount authorized
7 for mileage expenses and per diem subsistence for state employees as
8 prescribed by title 38, chapter 4, article 2.

9 C. A notary shall not **ADVERTISE**, charge or receive a fee for
10 performing a notarial act except as specifically authorized by rule.

11 Sec. 6. Section 41-323, Arizona Revised Statutes, is amended to read:

12 41-323. Change of address; lost journal or seal; civil penalty

13 A. Within thirty days after the change of a notary's mailing, **BUSINESS**
14 or residential address, the notary shall deliver to the secretary of state,
15 by certified mail or other means providing a receipt, a signed notice of the
16 change that provides both the old and new addresses.

17 B. Within ten days after the loss or theft of an official journal or
18 seal, the notary shall deliver to the secretary of state, by certified mail
19 or other means providing a receipt, a signed notice of the loss or
20 theft. The notary also shall inform the appropriate law enforcement agency
21 in the case of theft.

22 C. If a notary fails to comply with subsection A or B, the notary has
23 failed to fully and faithfully discharge the duties of a notary and the
24 secretary of state may impose a civil penalty of twenty-five dollars against
25 the notary. The notary shall pay any civil penalty imposed by the secretary
26 of state pursuant to this subsection ~~prior to~~ **BEFORE** the renewal of the
27 notary's commission.

28 Sec. 7. Section 41-328, Arizona Revised Statutes, is amended to read:

29 41-328. Prohibited conduct; incomplete documents; signatures of
30 relatives

31 A. A notary public shall not perform a jurat on a document that is
32 incomplete. If a notary public is presented with a document that the notary
33 knows from experience to be incomplete or if the document on its face is
34 incomplete, the notary public shall refuse to perform the jurat.

35 B. A notary public is an impartial witness and shall not notarize the
36 notary's own signature or the signatures of any person who is related **TO THE**
37 **NOTARY** by marriage or adoption.

38 **C. A NOTARY PUBLIC SHALL NOT PERFORM A NOTARIZATION ON A DOCUMENT IF**
39 **THE NOTARY IS AN OFFICER OF ANY NAMED PARTY, IF THE NOTARY IS A PARTY TO THE**
40 **DOCUMENT OR IF THE NOTARY WILL RECEIVE ANY DIRECT MATERIAL BENEFIT FROM THE**
41 **TRANSACTION THAT IS EVIDENCED BY THE NOTARIZED DOCUMENT THAT EXCEEDS IN VALUE**
42 **THE FEES PRESCRIBED PURSUANT TO SECTION 41-316.**

1 Sec. 8. Section 41-332, Arizona Revised Statutes, is amended to read:
2 41-332. Notary education fund

3 The notary education fund is established consisting of monies deposited
4 pursuant to ~~section~~ SECTIONS 41-312 AND 41-353. The secretary of state shall
5 administer the fund. Monies in the fund are subject to legislative
6 appropriation.

7 Sec. 9. Section 41-351, Arizona Revised Statutes, is amended to read:
8 41-351. Definitions

9 In this article, unless the context otherwise requires:

10 1. "Approved time stamp provider" means a person or organization
11 recognized by the secretary of state as capable of reliably providing time
12 stamp services on notary service electronic documents.

13 2. "Electronic" means relating to technology having electrical,
14 digital, magnetic, wireless, optical, electromagnetic or similar
15 capabilities.

16 3. "Electronic acknowledgment" means a notarial act in which an
17 electronic notary electronically certifies that the signer, whose identity is
18 proven by satisfactory evidence, either:

19 (a) Appeared before the electronic notary and acknowledged that the
20 signer executed the instrument.

21 (b) Provided secure electronic acknowledgment that the signer executed
22 the electronic instrument presented to the electronic notary.

23 4. "Electronic commission" means the written authority to perform
24 electronic notarization acts.

25 5. "Electronic document" means any record created, generated, sent,
26 communicated, received or stored by electronic means.

27 6. "Electronic jurat" means an electronic notarial act in which the
28 electronic notary certifies that a signer, whose identity is proven by
29 satisfactory evidence, has made in the electronic notary's presence a
30 voluntary electronic signature or mark and has taken an oath or affirmation
31 vouching for the truthfulness of the signed electronic document.

32 7. "Electronic notary public" or "electronic notary" means any person
33 commissioned to perform notarial acts under this article.

34 8. "Electronic notary token" means the electronic attachment to a
35 notarized electronic document that is attached by the electronic notary and
36 that contains the notary's electronic signature. The electronic notary token
37 is linked to the electronic document to which it relates in a manner so that
38 if the document is changed the electronic notary token is invalidated.

39 9. "Electronic signature" means an electronic method or process that
40 through the application of a security procedure allows a determination that
41 the electronic signature at the time it was executed was all of the
42 following:

43 (a) Unique to the person using it.

44 (b) Capable of verification.

45 (c) Under the sole control of the person using it.

1 (d) Linked to the electronic document to which it relates in a manner
2 so that if the document is changed the electronic signature is invalidated.

3 10. "Notary service electronic certificate" means the materials and
4 methods issued by an electronic notary to a prospective signer so that signer
5 may create a notary service electronic signature.

6 11. "Notary service electronic signature" means an act completed by a
7 signer using a properly issued notary service electronic certificate to sign
8 an electronic document.

9 12. "Oath" or "affirmation" means an act in which a person makes a vow
10 in the presence of the electronic notary under penalty of perjury, with
11 reference made to a supreme being in the case of an oath.

12 13. "Personal knowledge ~~of identity~~" means familiarity with an
13 individual resulting from interactions with that individual over a sufficient
14 time to eliminate reasonable doubt that the individual has the identity
15 claimed.

16 14. "Satisfactory evidence of identity" means:

17 (a) Proof of identity is evidenced by one of the following:

18 (i) An unexpired driver license that is issued by a state or territory
19 of the United States.

20 (ii) An unexpired passport that is issued by the United States
21 department of state.

22 (iii) An unexpired identification card that is issued by any branch of
23 the United States armed forces.

24 (iv) Any other unexpired identification card that is issued by the
25 United States government or a state or tribal government, that contains the
26 individual's photograph, signature and physical description and that contains
27 the individual's height, weight, color of hair and color of eyes.

28 (v) The oath or affirmation of a credible person who is personally
29 known to the electronic notary and who personally knows the individual
30 signer.

31 (vi) The oath or affirmation of a credible person who personally knows
32 the individual and who provides satisfactory evidence of identity pursuant to
33 item (i), (ii), (iii) or (iv) of this subdivision.

34 (vii) Personal knowledge of the individual signer by the electronic
35 notary.

36 (b) In addition to ~~the provisions of paragraph 14,~~ subdivision (a) of
37 this ~~section~~ PARAGRAPH, for the purposes of a real estate conveyance or
38 financing, ~~that~~ proof of identity may be evidenced by one of the following:

39 (i) A valid unexpired passport that is issued by the United States
40 government.

41 (ii) A valid unexpired passport that is issued by a national
42 government other than the United States government and that is accompanied by
43 a valid unexpired visa or other documentation that is issued by the United
44 States government and that is necessary to establish an individual's legal
45 presence in the United States.

1 (iii) Any other valid unexpired identification that is deemed
2 acceptable by the United States department of homeland security to establish
3 an individual's legal presence in the United States and that is accompanied
4 with supporting documents as required by the United States department of
5 homeland security.

6 15. "Time stamp token" means a secure electronic method to affix a
7 statement of the time and date that the document was recognized as a valid
8 notary service electronic document by an approved time stamp provider. A
9 time stamp token is attached by an approved time stamp provider to the
10 document in a way that if the document changes the time stamp token is
11 invalidated.

12 Sec. 10. Section 41-353, Arizona Revised Statutes, is amended to read:
13 41-353. Appointment; term; bond; duties; fees; training courses

14 A. The secretary of state may appoint electronic notaries public to
15 hold office for four years.

16 B. The secretary of state shall prescribe the application form for an
17 electronic notary. Applicants shall submit the application to the secretary
18 of state with a filing fee, a bond and a bond filing fee as prescribed by
19 rule by the secretary of state.

20 C. The materials and methods for creating notary service electronic
21 certificates and any other encryption based technologies used by an
22 electronic notary shall have a maximum useful life of two years and shall not
23 exceed the life of the electronic notary commission.

24 D. An electronic notary public is a public officer commissioned by
25 this state and the following apply without regard to whether the electronic
26 notary public's employer or any other person has paid the fees and costs for
27 the commissioning of the electronic notary public, including costs for the
28 materials and methods employed with the electronic notary token and the
29 materials and methods for creating notary service electronic certificates and
30 journals:

31 1. All of the following remain the property of the electronic notary:

32 (a) The materials and methods employed with and solely for the
33 electronic notary token.

34 (b) The materials and methods used solely for creating notary service
35 electronic certificates.

36 (c) Any journals containing only public information record entries.

37 2. Notwithstanding paragraph 1 of this subsection, an electronic
38 notary does not gain ownership or presumptive access rights to any of an
39 employer's assets or resources that are used or are usable for a purpose
40 other than electronic notarial acts.

41 3. An electronic notary may perform electronic notarizations outside
42 the workplace of the electronic notary's employer except during those times
43 normally designated as the electronic notary's hours of duty for that
44 employer. All fees received by an electronic notary for electronic notarial

1 services provided while not on duty remain the property of the electronic
2 notary.

3 4. An employer of an electronic notary shall not limit the electronic
4 notary's services to customers or other persons designated by the employer.

5 E. An electronic notary public shall continue to serve until the
6 electronic notary's commission expires, the electronic notary resigns the
7 commission, the electronic notary dies or the secretary of state suspends or
8 revokes the commission. An employer shall not cancel the electronic notary
9 bond or electronic notary commission of any electronic notary who is an
10 employee and who leaves that employment.

11 F. An electronic notary shall comply with all of the following:

12 1. Be at least eighteen years of age.

13 2. Be a citizen or a legal permanent resident of the United States.

14 3. Be a resident of this state for income tax purposes and claim the
15 individual's residence in this state as the individual's primary residence on
16 state and federal tax returns.

17 4. Except as provided in section 41-368, subsection A, paragraph 2,
18 never have been convicted of a felony.

19 5. Keep as a reference a manual that is approved by the secretary of
20 state and that describes the duties, authority and ethical responsibilities
21 of electronic notaries public.

22 6. BE ABLE TO READ AND WRITE ENGLISH.

23 G. An applicant for appointment and commission as an electronic notary
24 shall complete an application form prescribed by the secretary of state.
25 Except for the applicant's name, physical business address, electronic
26 business address and business telephone number, all other information on the
27 application is confidential and shall not be disclosed to any person other
28 than the applicant, the applicant's personal representative or an officer or
29 employee of the federal government or this state or its political
30 subdivisions who is acting in an official capacity. The secretary of state
31 shall use the information contained on the application only for carrying out
32 the purposes of this article.

33 H. The state or any of its political subdivisions may pay the fees and
34 costs for the commissioning of an electronic notary who is an employee of
35 this state or any of its political subdivisions and performs electronic
36 notarial services in the course of the electronic notary's employment or for
37 the convenience of public employees.

38 I. THE SECRETARY OF STATE MAY REQUIRE THAT APPLICANTS AND SUSPENDED
39 NOTARIES PRESENT PROOF OF ATTENDANCE AT A NOTARY TRAINING COURSE BEFORE
40 RECEIVING THEIR COMMISSIONS OR BEFORE REINSTATEMENT OF A SUSPENDED
41 COMMISSION. NOTARIES SHALL ATTEND A NOTARY TRAINING COURSE WITHIN NINETY
42 DAYS BEFORE RENEWING THEIR COMMISSIONS. THE SECRETARY OF STATE MAY ASSESS A
43 FEE PRESCRIBED BY THE SECRETARY OF STATE FOR ADMINISTERING NOTARY TRAINING
44 COURSES. THE SECRETARY OF STATE SHALL DEPOSIT THE FEES COLLECTED IN THE
45 NOTARY EDUCATION FUND ESTABLISHED BY SECTION 41-332.

1 Sec. 11. Section 41-355, Arizona Revised Statutes, is amended to read:
2 41-355. Duties: electronic notarization in presence of
3 electronic notary

4 A. Electronic notaries public shall perform the following electronic
5 notarial acts when requested:

- 6 1. Take electronic acknowledgments.
- 7 2. Administer oaths and affirmations relating to electronic documents
8 and electronic notarial acts.
- 9 3. Perform jurats relating to electronic documents and electronic
10 notarial acts.

11 ~~4. Educate notary service electronic signature certificate applicants
12 about the responsibilities and consequences of the use of the certificate.~~

13 ~~5. Administer an oath or affirmation that the notary service
14 electronic signature certificate applicant understands the responsibilities
15 and consequences of using a notary service electronic signature certificate
16 to sign a notary service electronic document and that the electronic
17 signature certificate has the same legal force and effect as any notarial act
18 made before a notary public pursuant to article 2 of this chapter.~~

19 ~~6. Register the notary service electronic signature certificate
20 applicant for the issuance of a notary service electronic signature
21 certificate that has a maximum useful life of two years.~~

22 B. NOTARIES PUBLIC SHALL PERFORM THE NOTARIAL ACTS PRESCRIBED IN
23 SUBSECTION A OF THIS SECTION ONLY IF:

- 24 1. THE SIGNER IS IN THE PRESENCE OF THE NOTARY AT THE TIME OF
25 NOTARIZATION.
- 26 2. THE SIGNER SIGNS IN A LANGUAGE THAT THE NOTARY UNDERSTANDS.
- 27 3. THE SIGNER COMMUNICATES DIRECTLY WITH THE NOTARY IN A LANGUAGE THEY
28 BOTH UNDERSTAND.
- 29 4. THE NOTARIAL CERTIFICATE IS WORDED AND COMPLETED USING ONLY
30 LETTERS, CHARACTERS AND A LANGUAGE THAT ARE READ, WRITTEN AND UNDERSTOOD BY
31 THE NOTARY PUBLIC.

32 C. IF A NOTARY ATTACHES A NOTARIAL CERTIFICATE TO A DOCUMENT USING A
33 SEPARATE SHEET OF PAPER, THE ATTACHMENT MUST CONTAIN A DESCRIPTION OF THE
34 DOCUMENT THAT INCLUDES AT A MINIMUM THE TITLE OR TYPE OF DOCUMENT, THE
35 DOCUMENT DATE, THE NUMBER OF PAGES OF THE DOCUMENT AND ANY ADDITIONAL SIGNERS
36 OTHER THAN THOSE NAMED IN THE NOTARIAL CERTIFICATE.

37 ~~B.~~ D. A notarized electronic document that is completed in the
38 presence of an electronic notary consists of the following:

- 39 1. A complete electronic document.
- 40 2. A signature or mark that is affixed to the document by the signer.
- 41 3. A time and date statement that is contained within the electronic
42 notary token.
- 43 4. An electronic notary token that is affixed by the electronic notary
44 to the document.

1 ~~C~~. E. On completion of the notarized electronic document, any change
2 to any of the elements prescribed in subsection ~~B~~- D of this section
3 invalidates the notarized electronic document.

4 ~~D~~. F. An electronic notary public shall:

5 1. Keep, maintain and protect as a public record a journal of all
6 official acts performed by the notary as prescribed in section 41-361 and in
7 the form prescribed by the secretary of state.

8 2. Provide and keep the materials and processes to create an
9 electronic notary token as approved by the secretary of state.

10 3. Authenticate with the electronic notary token all official acts and
11 affix the date of the expiration of the notary's commission as an electronic
12 notary on every document that the electronic notary electronically signs.

13 4. Respond to any requests for information and comply with any
14 investigations that are initiated by the secretary of state or the office of
15 the attorney general.

16 Sec. 12. Section 41-358, Arizona Revised Statutes, is amended to read:

17 41-358. Fees; rules

18 A. Electronic notaries public may receive fees for the following
19 services:

20 1. Acknowledgments.

21 2. Oaths and affirmations.

22 3. Jurats.

23 4. Issuance of notary service electronic certificates.

24 B. The secretary of state shall determine by rule fees for services.

25 C. A NOTARY SHALL NOT ADVERTISE, CHARGE OR RECEIVE A FEE FOR
26 PERFORMING AN ELECTRONIC NOTARIAL ACT EXCEPT AS SPECIFICALLY AUTHORIZED BY
27 RULE.

28 Sec. 13. Section 41-364, Arizona Revised Statutes, is amended to read:

29 41-364. Change of address; lost or stolen electronic journal or
30 seal; civil penalty

31 A. Within thirty days after the change of an electronic notary's
32 mailing, BUSINESS, residential or electronic address, the electronic notary
33 shall deliver to the secretary of state, by certified mail or other means
34 providing a receipt, a signed notice of the change that provides both the old
35 and new addresses.

36 B. Within ten days after the loss or theft of an official journal or
37 any materials or processes used in creating an electronic notary token or
38 registering notary service electronic certificate applicants, the electronic
39 notary shall deliver to the secretary of state, by certified mail or other
40 means providing a receipt, a signed notice of the loss or theft. The
41 electronic notary also shall inform the appropriate law enforcement agency in
42 the case of theft.

43 C. If an electronic notary fails to comply with subsection A or B, the
44 electronic notary has failed to fully and faithfully discharge the duties of
45 an electronic notary and the secretary of state may impose against the

1 electronic notary a civil penalty in an amount the secretary of state
2 prescribes by rule. The electronic notary shall pay any civil penalty
3 imposed by the secretary of state pursuant to this subsection before the
4 renewal of the notary's commission.

5 Sec. 14. Section 41-366, Arizona Revised Statutes, is amended to read:
6 41-366. Prohibited conduct; incomplete documents; signatures of
7 relatives

8 A. An electronic notary public shall not perform an electronic jurat
9 on a document that is incomplete. If an electronic notary public is
10 presented with a document that the electronic notary knows from experience to
11 be incomplete or if the document on its face is incomplete, the electronic
12 notary public shall refuse to perform the jurat.

13 B. An electronic notary public is an impartial witness and shall not
14 notarize the notary's own signature or the signatures of any person who is
15 related TO THE ELECTRONIC NOTARY by marriage or adoption.

16 C. A NOTARY PUBLIC SHALL NOT PERFORM A NOTARIZATION ON A DOCUMENT IF
17 THE NOTARY IS AN OFFICER OF ANY NAMED PARTY, IF THE NOTARY IS A PARTY TO THE
18 DOCUMENT OR IF THE NOTARY WILL RECEIVE ANY DIRECT MATERIAL BENEFIT FROM THE
19 TRANSACTION THAT IS EVIDENCED BY THE NOTARIZED DOCUMENT THAT EXCEEDS IN VALUE
20 THE FEES PRESCRIBED IN SECTION 41-358.

21 Sec. 15. Section 44-1449, Arizona Revised Statutes, is amended to
22 read:

23 44-1449. Classification of goods or services

24 A single application for registration of a mark may include ~~any or~~ all
25 goods and services ~~upon ON~~ which the mark is actually being used ~~comprised in~~
26 ~~a single class, but in no event shall a single application include goods or~~
27 ~~services upon which the mark is being used which fall within different~~
28 ~~classes of goods or services~~ IN ONE OR MULTIPLE CLASSES. The following
29 general classes of goods and services are established for convenience of
30 administration of this article, but not to limit or extend the applicant's or
31 registrant's rights:

32 1. Chemical products used in industry, science, photography,
33 agriculture, horticulture or forestry; artificial and synthetic resins;
34 plastics for industrial use in the form of powders, liquids or pastes;
35 natural and artificial manures; fire extinguishing compositions; tempering
36 substances and chemical preparations for soldering; chemical substances for
37 preserving foodstuffs; tanning substances; adhesive substances used in
38 industry.

39 2. Paints, varnishes and lacquers; preservatives against rust and
40 against deterioration of wood; coloring matters and dyestuffs; mordants;
41 natural resins; metals in foil and powder form for painters and decorators.

42 3. Bleaching preparations and other substances for laundry use;
43 cleaning, polishing, scouring and abrasive preparations; soaps; perfumery,
44 essential oils, cosmetics and hair lotions; dentifrices.

- 1 4. Industrial oils and greases except oils and fats and essential
2 oils; lubricants; dust laying and absorbing compositions; fuels, including
3 motor spirit and illuminants; candles, tapers, night-lights and wicks.
- 4 5. Pharmaceutical, veterinary and sanitary substances; infants' and
5 invalids' food; plasters and material for bandaging; material for stopping
6 teeth, dental wax and disinfectants; preparations for killing weeds and
7 destroying vermin.
- 8 6. Unwrought and partly wrought common metals and the metals' alloys;
9 anchors, anvils, bells and rolled and cast building materials; rails and
10 other metallic materials for railway tracks; chains, except driving chains
11 for vehicles; nonelectric cables and wires; locksmiths' work; metallic pipes
12 and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws;
13 other goods in nonprecious metal that are not included in other classes;
14 ores.
- 15 7. Machines and machine tools; motors, except motors for land
16 vehicles; machine couplings and belting, except couplings and belting for
17 land vehicles; large size agricultural implements; incubators.
- 18 8. Hand tools and instruments; cutlery, forks and spoons; side arms.
- 19 9. Scientific, nautical, surveying and electrical apparatus and
20 instruments, including wireless apparatus and instruments; photographic,
21 cinematographic, optical, weighing, measuring, signaling, checking,
22 supervision, life-saving and teaching apparatus and instruments; coin or
23 counterfreed apparatus; talking machines; cash registers; calculating
24 machines; fire extinguishing apparatus.
- 25 10. Surgical, medical, dental and veterinary instruments and apparatus,
26 including artificial limbs, eyes and teeth.
- 27 11. Installations for lighting, heating, steam generating, cooking,
28 refrigerating, drying, ventilating, water supply and sanitary purposes.
- 29 12. Vehicles; apparatus for locomotion by land, air or water.
- 30 13. Firearms; ammunition and projectiles; explosive substances;
31 fireworks.
- 32 14. Precious metals and the metals' alloys; goods in precious metals or
33 coated with precious metals, except cutlery, forks and spoons; jewelry and
34 precious stones; horological and other chronometric instruments.
- 35 15. Musical instruments except talking machines and wireless apparatus.
- 36 16. Paper and paper articles and cardboard and cardboard articles;
37 printed matters, newspapers and periodicals and books; bookbinding material;
38 photographs; stationery and stationery adhesive materials; artists'
39 materials; paintbrushes; typewriters and office requisites, except furniture;
40 instructional and teaching material, except instructional and teaching
41 apparatus; playing cards; printers' type and cliches or stereotype.
- 42 17. Gutta percha, India rubber, balata and substitutes and articles
43 made from these substances and not included in other classes; plastics in the
44 form of sheets, blocks and rods for use in manufacturing; materials for

- 1 packing, stopping or insulating; asbestos, mica and asbestos or mica
2 products; nonmetallic hose pipes.
- 3 18. Leather, imitations of leather and articles made from leather and
4 imitations of leather that are not included in other classes; skins and
5 hides; trunks and traveling bags; umbrellas, parasols and walking sticks;
6 whips, harnesses and saddlery.
- 7 19. Building materials, natural and artificial stone, cement, lime,
8 mortar, plaster and gravel; pipes of earthenware or cement; roadmaking
9 materials; asphalt, pitch and bitumen; portable buildings; stone monuments;
10 chimney pots.
- 11 20. Furniture, mirrors and picture frames; articles of wood, cork,
12 reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber,
13 mother-of-pearl, meerschaum or celluloid, substitutes for all of these
14 materials, or of plastics and that are not included in other classes.
- 15 21. Small domestic utensils and containers, except utensils and
16 containers of precious metals or utensils and containers coated with precious
17 metals; combs and sponges; brushes, except paintbrushes; brushmaking
18 materials; instruments and material for cleaning purposes and steel wool;
19 unworked or semiworked glass, except glass used in building; glassware,
20 porcelain and earthenware that is not included in other classes.
- 21 22. Ropes, string, nets, tents, awnings, tarpaulins, sails and sacks;
22 padding and stuffing materials, including hair, kapok, feathers and seaweed;
23 raw, fibrous textile materials.
- 24 23. Yarns and threads.
- 25 24. Tissues that are piece goods; bed and table covers; textile
26 articles that are not included in other classes.
- 27 25. Clothing, including boots, shoes and slippers.
- 28 26. Lace, embroidery, ribands and braid; buttons, press buttons, hooks,
29 eyes, pins and needles; artificial flowers.
- 30 27. Carpets, rugs, mats and matting; linoleums and other materials for
31 covering existing floors; nontextile wall hangings.
- 32 28. Games and playthings; gymnastic and sporting articles, except
33 gymnastic and sporting clothes; ornaments and decorations for Christmas
34 trees.
- 35 29. Meats, fish, poultry and game; meat extracts; preserved, dried and
36 cooked fruits and vegetables; jellies and jams; eggs, milk and other dairy
37 products; edible oils and fats; preserves and pickles.
- 38 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago and coffee
39 substitutes; flour and preparations made from cereals; bread, biscuits,
40 cakes, pastry and confectionery; ices; honey and treacle; yeast and baking
41 powder; salt, mustard, pepper, vinegar, sauces and spices.
- 42 31. Agricultural, horticultural and forestry products and grains that
43 are not included in other classes; living animals; fresh fruits and
44 vegetables; seeds; live plants and flowers; foodstuffs for animals; malt.

- 1 32. Beer, ale and porter; mineral waters, aerated waters and other
- 2 nonalcoholic drinks; syrups and other preparations for making beverages.
- 3 33. Wines, spirits and liqueurs.
- 4 34. Raw or manufactured tobacco; smokers' articles; matches.
- 5 35. Computers and computer software.
- 6 36. Advertising and business.
- 7 37. Insurance and financial.
- 8 38. Construction and repair.
- 9 39. Communication.
- 10 40. Transportation and storage.
- 11 41. Material treatment.
- 12 42. Education and entertainment.
- 13 43. Miscellaneous.

14 Sec. 16. Section 44-1460.07, Arizona Revised Statutes, is amended to
15 read:

16 44-1460.07. Trade name registration cancellation; release for
17 use

18 A. The secretary of state shall cancel a trade name registration if:

- 19 1. The secretary of state receives a voluntary request for
- 20 cancellation from the registrant or the assignee of record.
- 21 2. The registration is not renewed in accordance with this article.
- 22 3. A court of competent jurisdiction orders the cancellation on any
- 23 grounds.
- 24 4. The registration was obtained fraudulently by containing false or
- 25 misleading information.

26 B. THE SECRETARY OF STATE MAY RELEASE A TRADE NAME FOR USE PURSUANT TO
27 THIS ARTICLE SIX MONTHS AFTER THE TRADE NAME'S CORPORATE OWNER HAS BEEN
28 ADMINISTRATIVELY DISSOLVED.

29 Sec. 17. Section 44-1792, Arizona Revised Statutes, is amended to
30 read:

31 44-1792. Exemption

32 This article does not apply to:

33 1. Any private club owned and operated by its members, any facility
34 owned or operated by the state of Arizona or any of its political
35 subdivisions, any health spa operated by a fraternal or benevolent society
36 organized under title 10, chapter 19, article 3 or a nonprofit corporation
37 organized under title 10, chapters 24 through 40, or any health care
38 institution licensed pursuant to title 36, chapter 4.

39 2. Any health spa ~~which by January 15 of every even-numbered year~~
40 ~~files a declaration, executed under penalty of perjury by the owner or~~
41 ~~manager of the health spa, with the secretary of state which states that the~~
42 ~~health spa~~ THAT does not require or in the ordinary course of business
43 receive prepayment for services. For the purposes of this paragraph, payment
44 for health spa services received within the thirty-one days in which the
45 services are to be rendered does not constitute prepayment. A health spa

1 ~~which has filed a declaration under this paragraph and which~~ THAT intends to
2 begin requiring or receiving prepayment for health spa services shall comply
3 with this article.

4 Sec. 18. Repeal

5 Title 44, chapter 24, Arizona Revised Statutes, is repealed.

6 Sec. 19. Laws 2008, chapter 291, section 9, as amended by Laws 2010,
7 chapter 313, section 16, is amended to read:

8 Sec. 9. Delayed implementation; professional employer
9 organization registration; retroactivity

10 A. Notwithstanding any other law, the secretary of state shall not
11 implement title 23, chapter 3, article 4, Arizona Revised Statutes, relating
12 to professional employer organization registration, or any rules adopted
13 pursuant to title 23, chapter 3, article 4, Arizona Revised Statutes, until
14 July 1, ~~2012~~ 2013.

15 B. This section is effective retroactively to from and after February
16 29, 2008.