

# State Notary Law

**Judge Jean W. Brown**

Chief Legal Advisor to the Secretary of State

Notary Conference | October 1, 2009

Renaissance Montgomery Hotel



## Code of Alabama, 1975 § 36-20-1

**Appointment and commissioning; term of office; fee of probate judge for issuance of notary commissions; report to secretary of state by probate judge as to notaries appointed and commissioned.**

- A competent number of notaries public for each county shall be appointed and commissioned by the probate judges of the several counties of the state and shall hold office for four years from the date of their commissions. The probate judges shall collect a fee of \$1.00 for each such notary commission issued. The probate judges shall also report to the secretary of state the name, county, date of issuance and date of expiration of the commission of each notary public appointed and commissioned under this section.



## Code of Alabama, 1975 § 36-20-2

### **Vacation of office by removal from county.**

- Notaries public shall vacate their office by removal from the county.



## Code of Alabama, 1975 § 36-20-3

### **Bond.**

- Notaries public must give bond with sureties, to be approved by the judge of probate of the county for which they are appointed, in the sum of \$10,000.00, payable to the State of Alabama and conditioned to faithfully discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond must be executed, approved, filed and recorded in the office of the judge of probate before they enter on the duties of such office.



## Code of Alabama, 1975 § 36-20-4

### Seal.

- For the authentication of his official acts, each notary must provide a seal of office, which must present, by its impression, his name, office, state and the county for which he was appointed.



## Code of Alabama, 1975 § 36-20-5

### **Powers.**

- Notaries public shall have authority to:
  - (1) Administer oaths in all matters incident to the exercise of their office;
  - (2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office;
  - (3) Demand acceptance and payment of bills of exchange, promissory notes and all other writings which are governed by the commercial law as to days of grace, demand and notice of nonpayment and protest the same for nonacceptance or nonpayment and to give notice thereof as required by law; and
  - (4) Exercise such other powers as, according to commercial usage or the laws of this state, may belong to notaries public.



## Code of Alabama, 1975 § 36-20-6

### **Fees.**

- Notaries public are entitled to the following fees: The sum of \$1.50 and necessary postage for all services rendered in connection with the protest of any bill of exchange for acceptance, or of any bill of exchange, promissory note, check or other writing for payment and shall not charge any other fees therefor; for any oath, certificate and seal taken under subdivision (1) of Section 36-20-5, \$.50; for giving copies from register, \$.20 for each 100 words; for each certificate and seal to such copy, \$.25; and for giving any other certificate and affixing seal of office, \$.50.



## Code of Alabama, 1975 § 36-20-7

**Notary public to maintain register of official acts;  
provision of certified copies from register generally.**

- Each notary public must keep a fair register of all his official acts and give a certified copy therefrom, when required, on payment of his legal fees.



## Code of Alabama, 1975 § 36-20-8

**Register to be delivered to probate judge upon death, resignation, etc., of notary; liability of person failing to deliver notary's register to probate judge on demand generally.**

- In case of the death, resignation, removal or expiration of his term of office, the registers of any notary must, within 30 days thereafter, be delivered to the judge of probate of the county, and any person having the same in possession and refusing to deliver them on demand to such judge is liable to an action for the recovery thereof in the name of such judge.



## Code of Alabama, 1975 § 36-20-9

**Penalty for failure to deliver notary's register to probate judge on demand.**

- Any person who, after the death, resignation, removal or expiration of the term of office of any notary public, having in possession the register kept by such notary public, refuses, on demand, to deliver the same to the judge of probate of the county, shall, on conviction, be fined not less than \$100.00.



## Code of Alabama, 1975 § 36-20-10

**Probate judge may deliver register to another notary; provision of certified copies from register.**

- The registers referred to in Section 36-20-8 may, by such judge, be delivered to any other notary of his county, who must give certified copies from the same to any person making application therefor on payment of the legal fees. While the registers are in the possession of the judge of probate, he must give certified copies from the same on application and the payment of the fees therefor in the same manner as notaries public.



## Code of Alabama, 1975 § 36-20-11

**Performance or assumption of authority to perform notarial act without commission.**

- Any person who, having been a notary or a notary public for the state at large, willfully performs or assumes the authority to perform a notarial act after his commission expires or any person who without a notary's commission assumes the authority and performs a notarial act shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than one year.



## Code of Alabama, 1975 § 36-20-30

**Appointment and commissioning; term of office; powers, duties and territorial jurisdiction; fee of probate judge for issuance of notary commissions; report to Secretary of State by probate judge as to notaries appointed and commissioned.**

- A competent number of notaries public for the state at large shall be appointed and commissioned by the probate judges of the several counties of the state and shall hold office for four years from the date of their commission. Such notaries public for the state at large shall perform all the acts and exercise all authority now performed and exercised by notaries public under the general laws of the State of Alabama. The jurisdiction of such notaries public shall not be limited to the counties of their residence but shall extend to any county of the state. The probate judges shall collect a fee of \$1.00 for each such notary commission issued. The probate judges shall also report to the Secretary of State the name, county of residence, date of issuance and date of expiration of the commission of each notary public appointed and commissioned under this section and the fact that said notary was appointed and commissioned for the state at large.



## Code of Alabama, 1975 § 36-20-31

### **Bond.**

- Notaries public appointed under this article must give bond with sureties to be approved by the judge of probate of the county of their residence in the sum of \$10,000.00, payable to the State of Alabama and conditioned to faithfully discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond must be executed, approved, filed and recorded in the office of the judge of probate of the county of their residence before they enter on the duties of such office. Such notaries public for the state at large, in the event of any breach of the conditions of their official bonds, may be sued in the county of their residence or in the county in which the breach was committed or in the county where the party or parties who suffered damages from the breach reside.



## Code of Alabama, 1975 § 36-20-32

### Seal.

- For the authentication of his official acts, each such notary must provide a seal of office which must present, by its impression, his name, office and the state for which he was appointed.



## Code of Alabama, 1975 § 36-20-50

### **Definitions.**

- (3) CIVIL LAW NOTARY. A person who is admitted to the practice of law in this state, who has practiced law in a United States jurisdiction for at least five years, and who is appointed by the Secretary of State as a civil law notary.



## Code of Alabama, 1975 § 36-20-51

### **Civil law notaries.**

- (a) The Secretary of State shall have the power to appoint civil law notaries and administer this article.



## Code of Alabama, 1975 § 36-20-52

### **Rules of procedure.**

- The Secretary of State may adopt rules prescribing all of the following:
  - (1) The form and content of authentic acts, oaths, acknowledgments, and signatures and seals or their legal equivalents.
  - (2) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments and oaths, and procedures for the administration of oaths and taking of acknowledgments.
  - (3) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this article.



## Code of Alabama, 1975 § 36-20-52 (cont.)

- (4) Educational requirements and procedures for testing applicants' knowledge of all matters relevant to the appointment, authority, duties, or legal or ethical responsibilities of a civil law notary.
- (5) Procedures for the disciplining of civil law notaries, including, but not limited to, the suspension and revocation of appointments for failure to comply with the requirements of this article or the rules of the Secretary of State, or for misrepresentation or fraud regarding the civil law notary's authority, the effect of the civil law notary's authentic acts, or the identities or acts of the parties to a transaction.
- (6) Bonding or errors and omissions insurance requirements, or both, for civil law notaries.
- (7) Other matters necessary for administering this article.



## Code of Alabama, 1975 § 8-1A-11

### **Notarization and acknowledgment.**

- If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.



## Alabama Attorney General's Opinions

- **Opinion No. 1980-13 to The Honorable Richard H. Ramsey, III**
- **Opinion No. 1982-321 to The Honorable Robert C. Gafford**
- **Opinion 1985-150 to The Honorable William B. Duncan**
- **Opinion No. 1988-332 to The Honorable Walker Hobbie, Jr.**
- **Opinion 1990-068 to The Honorable L.W. Noonan**



## Alabama Attorney General's Opinions (cont.)

- **Opinion No. 1990-69 to The Honorable Paul Thomas**
- **Opinion No. 1990-145 to The Honorable Perry A. Hand**
- **Opinion No. 1992-173 to The Honorable Thomas A. Snowden, Jr.**
- **Opinion No. 1995-220 to The Honorable Bobby Day**
- **Opinion No. 1995-274 to The Honorable W. Mack Price**
- **Opinion No. 1995-289 to The Honorable Jim Bennett**



## Alabama Attorney General's Opinions (cont.)

- **Opinion No. 1996-036 to The Honorable Jim Bennett**
- **Opinion No. 1998-116 to The Honorable Adrian Johns**
- **Opinion No. 2005-175 to The Honorable Craig Ford**



## Additional Website Resources

- [www.sos.alabama.gov](http://www.sos.alabama.gov)
- [www.alabamaadministrativecode.state.al.us](http://www.alabamaadministrativecode.state.al.us)
- [www.ago.alabama.gov/opinion\\_search.cfm](http://www.ago.alabama.gov/opinion_search.cfm)

# Thank You!

**There will be a question  
& answer session at the  
end of this conference.**