

House Engrossed

notary public; requirements

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2588

AN ACT

AMENDING TITLE 11, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-472; AMENDING SECTIONS 41-258, 41-259, 41-260, 41-261, 41-263, 41-266 AND 41-269, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-269.01, 41-269.02 AND 41-269.03; AMENDING SECTIONS 41-271, 41-314, 41-317, 41-319 AND 41-323, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-334; AMENDING SECTIONS 41-619.51, 41-1758 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO LEGAL DOCUMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 11, chapter 3, article 3, Arizona Revised  
3 Statutes, is amended by adding section 11-472, to read:

4 11-472. Recording; deed; quitclaim deed; deed of trust;  
5 identification; exceptions

6 IF A DOCUMENT TO BE RECORDED IS A DEED, QUITCLAIM DEED OR DEED OF  
7 TRUST OR ANY OTHER DOCUMENT THAT AFFECTS REAL PROPERTY, AN INDIVIDUAL  
8 SHALL PROVIDE THE RECORDER WITH TWO VALID FORMS OF IDENTIFICATION, UNLESS  
9 THE DOCUMENT TO BE RECORDED IS SUBMITTED BY ANY OF THE FOLLOWING:

- 10 1. AN ESCROW OFFICER.
- 11 2. A TITLE INSURANCE AGENT OR TITLE INSURER AS DEFINED IN SECTION  
12 20-1562.
- 13 3. A STATE CHARTERED OR FEDERALLY CHARTERED BANK INSURED BY THE  
14 FEDERAL DEPOSIT INSURANCE CORPORATION.
- 15 4. AN ACTIVE MEMBER OF THE STATE BAR OF ARIZONA.
- 16 5. AN AGENCY, BRANCH OR INSTRUMENTALITY OF THE FEDERAL GOVERNMENT.
- 17 6. A TRUSTED SUBMITTER AS DEFINED IN SECTION 11-461.
- 18 7. A GOVERNMENTAL ENTITY.

19 Sec. 2. Section 41-258, Arizona Revised Statutes, is amended to  
20 read:

21 41-258. Notarial act in this state

22 A. Any of the following may perform a notarial act in this state:

- 23 1. A notary public of this state.
- 24 2. A judge, ~~OF A COURT OF RECORD.~~
- 25 3. A clerk or deputy clerk of a court of record of this state WHO  
26 HAS A SEAL.
- 27 ~~3. An individual who is licensed to practice law in this state.~~

28 4. Any other individual who is authorized to perform the specific  
29 act by the laws of this state.

30 B. The signature and title of an individual performing a notarial  
31 act in this state are prima facie evidence that the signature is genuine  
32 and that the individual holds the designated title.

33 C. The signature and title of a notarial officer listed in  
34 subsection A, paragraph 1, 2 or 3 of this section conclusively establish  
35 the authority of the notarial officer to perform the notarial act.

36 Sec. 3. Section 41-259, Arizona Revised Statutes, is amended to  
37 read:

38 41-259. Notarial act in another state

39 A. A notarial act performed in another state has the same effect  
40 under the laws of this state as if performed by a notarial officer of this  
41 state, if the act performed in that state is performed by any of the  
42 following:

- 43 1. A notary public of that state.
- 44 2. A judge, clerk or deputy clerk of a court OF RECORD of that  
45 state.

1           3. Any other individual who is authorized by the laws of that state  
2 to perform the notarial act.

3           B. The signature and title of an individual performing a notarial  
4 act in another state are prima facie evidence that the signature is  
5 genuine and that the individual holds the designated title.

6           C. The signature and title of a notarial officer described in  
7 subsection A, paragraph 1 or 2 of this section conclusively establish the  
8 authority of the notarial officer to perform the notarial act.

9           Sec. 4. Section 41-260, Arizona Revised Statutes, is amended to  
10 read:

11           41-260. Notarial act under authority of federally recognized  
12   Indian tribes

13           A. A notarial act performed under the authority and in the  
14 jurisdiction of a federally recognized Indian tribe has the same effect as  
15 if performed by a notarial officer of this state, if the act performed in  
16 the jurisdiction of the tribe is performed by any of the following:

- 17           1. A notary public of the tribe.  
18           2. A judge, clerk or deputy clerk of a court **OF RECORD** of the  
19 tribe.

20           3. Any other individual who is authorized by the laws of the tribe  
21 to perform the notarial act.

22           B. The signature and title of an individual performing a notarial  
23 act under the authority of and in the jurisdiction of a federally  
24 recognized Indian tribe are prima facie evidence that the signature is  
25 genuine and that the individual holds the designated title.

26           C. The signature and title of a notarial officer described in  
27 subsection A, paragraph 1 or 2 of this section conclusively establish the  
28 authority of the notarial officer to perform the notarial act.

29           Sec. 5. Section 41-261, Arizona Revised Statutes, is amended to  
30 read:

31           41-261. Notarial act under federal authority

32           A. A notarial act performed under federal law has the same effect  
33 under the laws of this state as if performed by a notarial officer of this  
34 state, if the act performed under federal law is performed by any of the  
35 following:

- 36           1. A judge, clerk or deputy clerk of a court **OF RECORD**.  
37           2. An individual who is in military service or performs duties  
38 under the authority of military service and who is authorized to perform  
39 notarial acts under federal law.  
40           3. An individual who is designated a notarizing officer by the  
41 United States department of state for performing notarial acts overseas.  
42           4. Any other individual who is authorized by federal law to perform  
43 the notarial act.

1 B. The signature and title of an individual acting under federal  
2 authority and performing a notarial act are prima facie evidence that the  
3 signature is genuine and that the individual holds the designated title.

4 C. The signature and title of a notarial officer described in  
5 subsection A, paragraph 1, 2 or 3 of this section conclusively establish  
6 the authority of the notarial officer to perform the notarial act.

7 Sec. 6. Section 41-263, Arizona Revised Statutes, is amended to  
8 read:

9 41-263. Notarial act performed for remotely located  
10 individual; definitions

11 A. A remotely located individual may comply with section 41-254 by  
12 using communication technology to appear before a notary public.

13 B. A notary public located in this state may perform a notarial act  
14 using communication technology for a remotely located individual if:

15 1. The notary public has any of the following:

16 (a) Personal knowledge under section 41-255, subsection A of the  
17 remotely located individual's identity.

18 (b) Satisfactory evidence of the identity of the REMOTELY LOCATED  
19 individual by oath or affirmation from a credible witness appearing before  
20 and identified by the notary public under section 41-255, subsection B or  
21 this section.

22 (c) Satisfactory evidence of the identity of the remotely located  
23 individual by using at least two different types of identity proofing.

24 2. The notary public is able reasonably to confirm that a record  
25 before the notary public is the same record in which the remotely located  
26 individual made a statement or on which the individual executed a  
27 signature.

28 3. The notary public, or a person acting on behalf of the notary  
29 public, creates an audiovisual recording of the performance of the  
30 notarial act.

31 4. For a remotely located individual located outside the United  
32 States, both of the following apply:

33 (a) The record either:

34 (i) Is to be filed with or relates to a matter before a public  
35 official or court, governmental entity or other entity subject to the  
36 jurisdiction of the United States.

37 (ii) Involves property located in the territorial jurisdiction of  
38 the United States or involves a transaction substantially connected with  
39 the United States.

40 (b) The notary public has no actual knowledge that the act of  
41 making the statement or signing the record is prohibited by the foreign  
42 state in which the remotely located individual is located.

43 C. If a notarial act is performed under this section, the  
44 certificate of notarial act required by section 41-264 and the short form

1 certificate provided in section 41-265 must indicate BOTH OF THE  
2 FOLLOWING:

3 1. That the notarial act was performed using communication  
4 technology.

5 2. THE NAME OF THE COMMUNICATION TECHNOLOGY USED TO PERFORM THE  
6 NOTARIAL ACT.

7 D. A short form certificate provided in section 41-265 for a  
8 notarial act subject to this section is sufficient if either of the  
9 following applies:

10 1. The form of certificate complies with rules adopted under  
11 subsection G, paragraph 1 of this section.

12 2. The certificate is in the form provided in section 41-265 and  
13 contains a statement substantially as follows: "This notarial act involved  
14 the use of communication technology AND WAS PERFORMED USING (\_\_\_\_)."

15 E. A notary public, a guardian, conservator or agent of a notary  
16 public or a personal representative of a deceased notary public shall  
17 retain the audiovisual recording created under subsection B, paragraph 3  
18 of this section or cause the recording to be retained by a repository  
19 designated by or on behalf of the person required to retain the recording.  
20 Unless a different period is required by rule adopted under subsection G,  
21 paragraph 4 of this section, the recording must be retained for a period  
22 of at least ~~five~~ TEN years after the recording is made.

23 F. Before a notary public performs the notary public's initial  
24 notarial act under this section, the notary public must notify the  
25 secretary of state that the notary public will be performing notarial acts  
26 with respect to remotely located individuals and identify the technologies  
27 the notary public intends to use. If the secretary of state has  
28 established standards under subsection G of this section and section  
29 41-275 for approval of communication technology or identity proofing, the  
30 communication technology and identity proofing must conform to the  
31 standards.

32 G. In addition to adopting rules under section 41-275, on or before  
33 July 1, 2022, the secretary of state shall adopt rules under this section  
34 regarding performance of notarial acts for remotely located individuals.  
35 The rules may:

36 1. Prescribe the means of performing a notarial act involving a  
37 remotely located individual using communication technology.

38 2. Establish standards for communication technology and identity  
39 proofing.

40 3. Establish requirements or procedures to approve providers of  
41 communication technology and the process of identity proofing.

42 4. Establish standards and a period for the retention of an  
43 audiovisual recording created under subsection B, paragraph 3 of this  
44 section.

1 H. Before adopting, amending or repealing a rule governing  
2 performance of a notarial act with respect to a remotely located  
3 individual, the secretary of state must consider:

4 1. The most recent standards regarding the performance of a  
5 notarial act with respect to a remotely located individual adopted by  
6 national standard-setting organizations and the recommendations of the  
7 national association of secretaries of state.

8 2. Standards, practices and customs of other jurisdictions that  
9 have laws substantially similar to this section.

10 3. The views of governmental officials and entities and other  
11 interested persons.

12 I. For the purposes of this section:

13 1. "Communication technology" means an electronic device or process  
14 that:

15 (a) Allows a notary public and a remotely located individual to  
16 communicate with each other simultaneously by sight and sound.

17 (b) When necessary and consistent with other applicable law,  
18 facilitates communication with a remotely located individual who has a  
19 vision, hearing or speech impairment.

20 2. "Foreign state" means a jurisdiction other than the United  
21 States, a state or a federally recognized Indian tribe.

22 3. "Identity proofing" means a process or service by which a third  
23 person provides a notary public with a means to verify the identity of a  
24 remotely located individual by a review of personal information from  
25 public or private data sources.

26 4. "Outside the United States" means a location outside the  
27 geographic boundaries of the United States, Puerto Rico, the United States  
28 Virgin Islands and any territory, insular possession or other location  
29 subject to the jurisdiction of the United States.

30 5. "Remotely located individual" means an individual who is not in  
31 the physical presence of the notary public who performs a notarial act  
32 under subsection B of this section.

33 Sec. 7. Section 41-266, Arizona Revised Statutes, is amended to  
34 read:

35 41-266. Official stamp

36 A. The official stamp of a notary public must:

37 1. Include the words "notary public", the name of the county in  
38 which the notary public is commissioned, the notary public's name as it  
39 appears on the notary public's commission, **THE NOTARY PUBLIC'S COMMISSION**  
40 **NUMBER**, the commission expiration date, **THE GREAT SEAL OF THE STATE OF**  
41 **ARIZONA** and other information required by the secretary of state. **FOR A**  
42 **REMOTE OR ELECTRONIC NOTARIZATION, THE OFFICIAL STAMP SHALL CONTAIN THE**  
43 **COMMISSION THAT IS SPECIFIC TO THE REMOTE OR ELECTRONIC NOTARY.**

44 2. Be capable of being copied together with the record to which it  
45 is affixed or attached or with which it is logically associated. **IF A**

1 NOTARIAL OFFICER ATTACHES A NOTARIAL CERTIFICATE TO A DOCUMENT ON A  
2 SEPARATE SHEET OF PAPER, THE ATTACHMENT SHALL CONTAIN A DESCRIPTION OF THE  
3 DOCUMENT AND INCLUDE ALL OF THE FOLLOWING:

- 4 (a) THE TITLE OF OR THE TYPE OF DOCUMENT.
- 5 (b) THE DATE.
- 6 (c) THE NUMBER OF PAGES OF THE DOCUMENT.
- 7 (d) ANY ADDITIONAL INDIVIDUALS WHO SIGNED THE DOCUMENT OTHER THAN  
8 THOSE ON THE NOTARIAL CERTIFICATE.

9 B. A notary public's official stamp may be any shape. The physical  
10 image of an official stamp created by a physical stamping device must be  
11 not more than one and one-half inches high and two and one-half inches  
12 wide and it must include an image of the great seal of the state of  
13 Arizona. The electronic image of an official stamp created by an  
14 electronic stamping device must be legible when reproduced together with  
15 the record with which it is logically associated.

16 C. A notary public may not affix or attach the notary public's  
17 official stamp over the notary public's signature or over any other  
18 signature on the record that is the subject of the notarial act.

19 D. The official stamp of a notary public is an official seal of  
20 office for the purposes of the laws of this state.

21 Sec. 8. Section 41-269, Arizona Revised Statutes, is amended to  
22 read:

23 41-269. Commission as notary public; confidential  
24 information; qualifications; assurance; no immunity  
25 or benefit

26 A. An individual qualified under subsection B of this section may  
27 apply to the secretary of state for a commission as a notary public. The  
28 applicant shall comply with and provide the information required by rules  
29 established by the secretary of state and pay any application fee. Except  
30 for the applicant's name and business address, all information provided on  
31 the application is confidential and may not be disclosed to any person  
32 other than the applicant, the applicant's guardian or personal  
33 representative or an employee or officer of the federal, state or local  
34 government who is acting in an official capacity. The secretary of state  
35 shall use the information provided on the application only for carrying  
36 out the purposes of this article. THE SECRETARY OF STATE MAY REQUEST ANY  
37 REASONABLY NECESSARY INFORMATION FROM AN APPLICANT, INCLUDING ANY OF THE  
38 FOLLOWING:

- 39 1. PRIOR CRIMINAL RECORDS.
- 40 2. A VALID FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO SECTION  
41 41-1758.03.
- 42 3. AN AFFIDAVIT EXPLAINING WHETHER THE APPLICANT HAS:
  - 43 (a) BEEN CONVICTED OF A FELONY OR A MISDEMEANOR.
  - 44 (b) HAD ANY BUSINESS OR PROFESSIONAL LICENSE DENIED, SUSPENDED OR  
45 REVOKED OR HAD ANY OTHER DISCIPLINARY ACTION TAKEN OR ADMINISTRATIVE ORDER

1 ENTERED AGAINST THE APPLICANT BY ANY REGULATORY AGENCY IN THIS STATE OR IN  
2 ANY OTHER STATE.

3 (c) HAD ANY ADVERSE DECISION OR JUDGMENT ENTERED AGAINST THE  
4 APPLICANT ARISING OUT OF THE CONDUCT OF ANY BUSINESS IN OR INVOLVING A  
5 TRANSACTION IN REAL ESTATE, CEMETERY PROPERTY, TIMESHARE INTERVALS OR  
6 MEMBERSHIP CAMPING CAMPGROUNDS OR CONTRACTS INVOLVING FRAUD, DISHONESTY OR  
7 MORAL TURPITUDE.

8 B. An applicant for a commission as a notary public must:

9 1. Be at least eighteen years of age.

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

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

14 4. Be able to read, write and understand English.

15 5. Not be disqualified to receive a commission under section  
16 41-271.

17 6. Have passed the examination described in section 41-270 if  
18 required by the secretary of state.

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

22 C. Before a commission as a notary public is issued, an applicant  
23 for the commission shall execute an oath of office and submit it to the  
24 secretary of state.

25 D. Before issuance of a commission as a notary public, the  
26 applicant for a commission shall submit to the secretary of state an  
27 assurance in the form of a surety bond in the amount of \$5,000. The  
28 assurance must be issued by a surety or other entity licensed or  
29 authorized to do business in this state. The assurance must cover acts  
30 performed during the term of the notary public's commission and must be in  
31 the form prescribed by the secretary of state. If a notary public  
32 violates any law with respect to notaries public in this state, the surety  
33 or issuing entity is liable under the assurance. The surety or issuing  
34 entity shall give thirty days' notice to the secretary of state before  
35 canceling the assurance. The surety or issuing entity shall notify the  
36 secretary of state not later than thirty days after making a payment to a  
37 claimant under the assurance. A notary public may perform notarial acts  
38 in this state only during the period that a valid assurance is on file  
39 with the secretary of state. An employer may not cancel the assurance of  
40 any notary public who is an employee and who leaves such employment.

41 E. On compliance with this section, the secretary of state shall  
42 issue a commission as a notary public to an applicant for a term of four  
43 years.

44 F. A commission to act as a notary public authorizes the notary  
45 public to perform notarial acts. The commission does not provide the



1 notary public any immunity or benefit conferred by the laws of this state  
2 on public officials or employees.

3 G. A notary public is a public officer commissioned by this state  
4 and all of the following apply without regard to whether the notary  
5 public's employer or any other person has paid the fees and costs for the  
6 commissioning of the notary public, including costs for a stamping device  
7 or journal:

8 1. A notary public's stamping device, ~~AND~~ AND commission and any  
9 journal that contains only public record entries remain the property of  
10 the notary public.

11 2. A notary public may perform notarial acts outside the workplace  
12 of the notary's employer except during those times normally designated as  
13 the notary public's hours of duty for that employer. All fees received by  
14 a notary public for notarial services provided while not on duty remain  
15 the property of the notary public.

16 3. An employer of a notary public may not limit the notary public's  
17 services to customers or other persons designated by the employer.

18 H. This state or any political subdivision of this state may pay  
19 the fees and costs for the commissioning of a notary public who is an  
20 employee of this state or any political subdivision of this state and who  
21 performs notarial acts in the course of the notary public's employment or  
22 for the convenience of public employees.

23 Sec. 9. Title 41, chapter 2, article 1, Arizona Revised Statutes,  
24 is amended by adding sections 41-269.01, 41-269.02 and 41-269.03, to read:

25 41-269.01. Electronic filing; acceptance

26 A. UNLESS OTHERWISE PROHIBITED BY LAW, ANY DOCUMENT THAT IS  
27 REQUIRED TO BE FILED PURSUANT TO THIS ARTICLE MAY BE FILED IN AN  
28 ELECTRONIC FORMAT THAT IS APPROVED BY THE SECRETARY OF STATE.

29 B. ANY DOCUMENT THAT IS FILED IN ACCORDANCE WITH THIS ARTICLE IS  
30 DEEMED TO COMPLY WITH ALL OF THE FOLLOWING:

31 1. THE FILING REQUIREMENTS OF THIS ARTICLE.

32 2. THE REQUIREMENT THAT A FILING BE SUBMITTED WITH A WRITTEN  
33 SIGNATURE.

34 3. ANY REQUIREMENT THAT THE FILING BE FILED UNDER PENALTY OF  
35 PERJURY.

36 C. THE SECRETARY OF STATE MAY ADOPT RULES THAT REQUIRE THAT ANY  
37 PERSON WHO SUBMITS A DOCUMENT FOR FILING PURSUANT TO THIS SECTION ALSO  
38 SUBMIT A TANGIBLE COPY OF THE DOCUMENT AS A PREREQUISITE TO THE DOCUMENT  
39 BEING DEEMED FILED.

40 D. EXCEPT AS PROVIDED IN THIS SECTION, ALL CIVIL AND CRIMINAL  
41 STATUTES APPLICABLE TO THE FILING OF PAPER DOCUMENTS APPLY TO ALL  
42 DOCUMENTS FILED PURSUANT TO THIS SECTION.

1           41-269.02. Notary applicants; fingerprint clearance cards

2           A. BEFORE RECEIVING AND HOLDING A COMMISSION ISSUED PURSUANT TO  
3 THIS CHAPTER, EACH APPLICANT SHALL OBTAIN A VALID FINGERPRINT CLEARANCE  
4 CARD THAT IS ISSUED PURSUANT TO SECTION 41-1758.03.

5           B. THE APPLICANT IS RESPONSIBLE FOR PROVIDING THE SECRETARY OF  
6 STATE WITH A VALID FINGERPRINT CLEARANCE CARD.

7           C. THE SECRETARY OF STATE MAY NOT ISSUE A COMMISSION TO AN ORIGINAL  
8 APPLICANT BEFORE RECEIVING A VALID FINGERPRINT CLEARANCE CARD PURSUANT TO  
9 THIS SECTION. THE SECRETARY OF STATE SHALL SUSPEND THE COMMISSION IF THE  
10 FINGERPRINT CLEARANCE CARD IS DETERMINED TO BE INVALID OR IS SUSPENDED AND  
11 AN APPLICANT WHO WAS ISSUED A NOTARY COMMISSION FAILS TO SUBMIT A VALID  
12 FINGERPRINT CLEARANCE CARD WITHIN TEN DAYS AFTER BEING NOTIFIED BY THE  
13 DEPARTMENT OF PUBLIC SAFETY.

14           D. THIS SECTION DOES NOT AFFECT THE SECRETARY OF STATE'S AUTHORITY  
15 TO OTHERWISE ISSUE, DENY, CANCEL, TERMINATE, SUSPEND OR REVOKE A  
16 COMMISSION.

17           41-269.03. Misrepresentation of commission; cease and desist;  
18 attorney general

19           THE SECRETARY OF STATE MAY ISSUE A CEASE AND DESIST ORDER AGAINST A  
20 PERSON WHO THE SECRETARY OF STATE HAS REASON TO BELIEVE IS ACTING AS A  
21 NOTARY PUBLIC WITHOUT A CURRENT COMMISSION AND MAY REFER THE MATTER TO THE  
22 ATTORNEY GENERAL TO CONDUCT A CRIMINAL INVESTIGATION.

23           Sec. 10. Section 41-271, Arizona Revised Statutes, is amended to  
24 read:

25           41-271. Grounds to deny, refuse to renew, revoke, suspend or  
26 condition commission of notary public

27           A. The secretary of state may deny, refuse to renew, revoke,  
28 suspend or impose a condition on a commission as notary public for any act  
29 or omission that demonstrates the individual lacks the competence or  
30 reliability to act as a notary public, including any of the following:

31           1. Failure to comply with this article.

32           2. A fraudulent, dishonest or deceitful misstatement or omission in  
33 the application for a commission as a notary public submitted to the  
34 secretary of state.

35           3. A conviction of the applicant or notary public of any felony or  
36 a crime involving fraud, dishonesty or deceit. A conviction after a plea  
37 of no contest is deemed to be a conviction for the purposes of this  
38 paragraph.

39           4. A finding against or admission of liability by the applicant or  
40 notary public in any legal proceeding or disciplinary action based on the  
41 applicant's or notary public's fraud, dishonesty or deceit.

42           5. Failure by the notary public to discharge any duty required of a  
43 notary public, whether by this article, rules of the secretary of state or  
44 federal or state law.

1           6. Use of false or misleading advertising or representation by the  
2 notary public that the notary has a duty, right or privilege that the  
3 notary does not have.

4           7. Violation by the notary public of a rule of the secretary of  
5 state regarding a notary public.

6           8. Denial, refusal to renew, revocation, suspension or conditioning  
7 of a notary public commission in **THIS STATE OR** another state.

8           9. Failure of the notary public to maintain an assurance as  
9 provided in section 41-269, subsection D.

10          10. Charging more than the fees authorized by this article or rule.

11          11. The return for insufficient funds or for any other reason for  
12 nonpayment of a check issued for the assurance filing fees or application  
13 fees to the secretary of state.

14          12. Failure to respond to any request for information or to comply  
15 with any investigation initiated by the secretary of state or the attorney  
16 general.

17          ~~13. The prior revocation of a notary public commission in this~~  
18 ~~state.~~

19          B. If the secretary of state denies, refuses to renew, revokes,  
20 suspends or imposes conditions on a commission as a notary public, the  
21 applicant or notary public is entitled to timely notice and a hearing in  
22 accordance with chapter 6, article 10 of this title. The denial of an  
23 application or revocation or suspension of a commission is an appealable  
24 agency action. If an applicant appeals the denial of an application, the  
25 applicant may not submit a new application for consideration while the  
26 appeal is pending. If an individual's commission as a notary public in  
27 this state is revoked, the individual may not submit a new application for  
28 commission for one year after the date of revocation.

29          C. The authority of the secretary of state to deny, refuse to  
30 renew, suspend, revoke or impose conditions on a commission as a notary  
31 public does not prevent a person from seeking and obtaining other criminal  
32 or civil remedies provided by law.

33          Sec. 11. Section 41-314, Arizona Revised Statutes, is amended to  
34 read:

35          41-314. Notary bond fund; purpose; exemption

36          A. The notary bond fund is established consisting of monies  
37 received pursuant to ~~section~~ **SECTIONS** 41-178 **AND** 41-334.

38          B. The secretary of state shall administer the fund and spend  
39 monies in the fund in order to defray the cost of the secretary of state's  
40 office assuming the responsibilities associated with the processing and  
41 administration of notary bonds.

42          C. On notice from the secretary of state, the state treasurer shall  
43 invest and divest monies in the fund as provided by section 35-313, and  
44 monies earned from investment shall be credited to the fund.

1 D. Monies in the fund are continuously appropriated and exempt from  
2 the provisions of section 35-190 relating to lapsing of appropriations.

3 Sec. 12. Section 41-317, Arizona Revised Statutes, is amended to  
4 read:

5 41-317. Resignation; delivering notary seal, notarial journal  
6 and records; failure to comply; storing records;  
7 certified copies

8 A. A notary public shall submit the notary public's resignation in  
9 writing to the secretary of state.

10 B. On the resignation or revocation of a notarial commission or the  
11 death of a notary public, any physical stamping device, ~~AND~~ notarial  
12 journal and records, except those records of notarial acts that are not  
13 public record, shall be delivered by certified mail or other means  
14 providing a receipt to the secretary of state. If a notary public does  
15 not apply for reappointment, on expiration of the notarial commission, the  
16 device, ~~AND~~ the notarial journal and records shall be delivered to the  
17 secretary of state as required for resignation under this subsection. A  
18 notary public who neglects for three months thereafter to deposit such  
19 records, device and papers, or the personal representative of a deceased  
20 notary public who neglects for three months after appointment to deposit  
21 such records, device and papers, shall forfeit to the state not less than  
22 \$50 or more than \$500.

23 C. While a notary public is commissioned, ~~a~~ ~~THE~~ notary public  
24 shall keep all records and journals of the notary public's acts for at  
25 least ~~five~~ ~~TEN~~ years after the date the notarial act was performed. On  
26 receipt of the records and journals from a notary public who no longer is  
27 commissioned, the secretary of state shall keep all records and journals  
28 of notaries public deposited in the secretary of state's office for ~~five~~  
29 ~~TEN~~ years and shall give certified copies thereof when required, and for  
30 the copy certifications the secretary of state shall receive the same fees  
31 as are by law allowed to notaries public. The copy certifications shall  
32 be as valid and effectual as if given by a notary public.

33 Sec. 13. Section 41-319, Arizona Revised Statutes, is amended to  
34 read:

35 41-319. Journal

36 A. A notary public shall keep a paper journal to chronicle all  
37 notarial acts performed regarding tangible records. A notary public shall  
38 keep either a paper journal or one or more electronic journals to  
39 chronicle all notarial acts performed regarding electronic records.  
40 Except as prescribed by subsection E of this section, a notary public  
41 shall keep only one paper journal at a time. The notary public shall  
42 record all notarial acts in chronological order. The notary public shall  
43 furnish, when requested, a certified copy of any public record in the  
44 notary public's journal. Records of notarial acts that violate the  
45 attorney-client privilege or that are confidential pursuant to federal or

1 state law are not a public record. Each journal entry shall include at  
2 least:

3 1. The date of the notarial act.  
4 2. A description of the document and type of notarial act.  
5 3. The printed full name and address of each individual for whom a  
6 notarial act is performed.

7 4. If a paper journal is used, the signature of each individual for  
8 whom a notarial act is performed.

9 5. The type of satisfactory evidence of identity presented to the  
10 notary public by each individual for whom a notarial act is performed, or  
11 a notation that the notary public's personal knowledge of the individual  
12 was used as satisfactory evidence of identity.

13 6. A description of the identification card or document, if any,  
14 including its date of issuance or expiration.

15 7. The fee, if any, charged for the notarial act.

16 8. EXCEPT FOR NOTARIAL ACTS PERFORMED FOR REMOTELY LOCATED  
17 INDIVIDUALS UNDER SECTION 41-263, THE NOTARY PUBLIC'S LEGIBLE THUMBPRINT.

18 9. EXCEPT FOR NOTARIAL ACTS PERFORMED FOR REMOTELY LOCATED  
19 INDIVIDUALS UNDER SECTION 41-263, IF THE NOTARY PUBLIC IS NOTARIZING A  
20 QUITCLAIM DEED OR WARRANTY DEED, THE LEGIBLE THUMBPRINT OF THE NOTARY  
21 PUBLIC AND THE INDIVIDUAL FOR WHOM THE NOTARIAL ACT IS PERFORMED.

22 B. If a notary public has personal knowledge of the identity of a  
23 signer, the notary public shall retain a paper or electronic copy of the  
24 notarized documents for each notarial act in lieu of making a journal  
25 entry or the notary public shall make a journal entry pursuant to the  
26 requirements of subsection A, paragraphs 1, 2, 3, 4, 5 and 7 of this  
27 section.

28 C. Except for notarial acts performed for remotely located  
29 individuals under section 41-263, if a notary public performs more than  
30 one notarization for an individual within a six month period, the notary  
31 public shall have the individual provide satisfactory evidence of identity  
32 as required under section 41-255 the first time the notary performs the  
33 notarization for the individual but may not require satisfactory evidence  
34 of identity or the individual to sign the journal for subsequent  
35 notarizations performed for the individual during the six month period.

36 D. If a notary public performs more than one notarization of the  
37 same type for a signer either on similar records or within the same record  
38 and at the same time, the notary public may group the records together and  
39 make one journal entry for the transaction.

40 E. If one or more entries in a notary public's journal are not  
41 public records, the notary public shall keep one journal that contains  
42 entries that are not public records and one journal that contains entries  
43 that are public records. If a notary public keeps only one journal, that  
44 journal is presumed to be a public record. A notary public's journal that  
45 contains entries that are not public records is the property of the

1 employer of that notary public and shall be retained by that employer if  
2 the notary public leaves that employment. A notary public's journal that  
3 contains only public records is the property of the notary public without  
4 regard to whether the notary public's employer purchased the journal or  
5 provided the fees for the commissioning of the notary public.

6 F. Except as provided in subsections A and E of this section, the  
7 notary public's journal is a public record that may be viewed by or copied  
8 for any member of the public, but only on presentation to the notary  
9 public of a written request that details the month and year of the  
10 notarial act, the name of the individual whose signature was notarized and  
11 the type of record or transaction.

12 Sec. 14. Section 41-323, Arizona Revised Statutes, is amended to  
13 read:

14 41-323. Change of address; lost, stolen or compromised  
15 journal or seal; civil penalty; presumption;  
16 exception

17 A. Within thirty days after the change of a notary public's **EMAIL**,  
18 mailing, business or residential address, the notary public shall deliver  
19 to the secretary of state, by certified mail or other means providing a  
20 receipt, a signed notice of the change that provides both the old and new  
21 addresses.

22 B. Within ten days after the loss, theft or compromise of an  
23 official journal or stamping device, the notary public shall deliver to  
24 the secretary of state, by certified mail or other means providing a  
25 receipt, a signed notice of the loss, theft or compromise. The notary  
26 also shall inform the appropriate law enforcement agency in the case of  
27 theft.

28 C. If a notary public fails to comply with subsection A or B of  
29 this section, the notary public has failed to fully and faithfully  
30 discharge the duties of a notary public. If the notary public failed to  
31 comply with subsection A of this section, the secretary of state may  
32 impose a civil penalty of \$25 against the notary. If the notary public  
33 failed to comply with subsection B of this section, the secretary of state  
34 shall impose a civil penalty of \$1,000 against the notary. The notary  
35 public shall pay any civil penalty imposed by the secretary of state  
36 pursuant to this subsection before the renewal of the notary's commission.  
37 Failure to pay a penalty may be referred to the attorney general for  
38 collection.

39 D. In a judicial proceeding where the identity of a party to a  
40 notarized instrument is in question, the official journal of the notary  
41 public is lost, stolen or compromised and the notary complied with this  
42 section, a presumption shall be given to the validity of the identity of  
43 the party who signed the instrument. If it is determined that the  
44 official journal never existed or that the notary public failed to comply

1 with this section, no presumption shall apply that the identity of the  
2 party who signed the notarized instrument in question is valid.

3 E. In an action in which the validity of a notarized document is at  
4 issue and it is determined that the notary public did not comply with this  
5 section, the court shall provide notice of such findings to the secretary  
6 of state and the county attorney for the county in which the violation  
7 occurred.

8 Sec. 15. Title 41, chapter 2, article 2, Arizona Revised Statutes,  
9 is amended by adding section 41-334, to read:

10 41-334. Deposit; notary bond fund

11 FOR EVERY ORIGINAL NOTARY APPLICATION FILED PURSUANT TO THIS  
12 CHAPTER, THE SECRETARY OF STATE SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146  
13 AND 35-147, \$6 OF EVERY APPLICATION AND BOND FILING FEE IN THE NOTARY BOND  
14 FUND ESTABLISHED BY SECTION 41-314.

15 Sec. 16. Section 41-619.51, Arizona Revised Statutes, is amended to  
16 read:

17 41-619.51. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Agency" means the supreme court, the department of economic  
20 security, the department of child safety, the department of education, the  
21 department of health services, the department of juvenile corrections, the  
22 department of emergency and military affairs, the department of public  
23 safety, the department of transportation, the state real estate  
24 department, the department of insurance and financial institutions, the  
25 Arizona game and fish department, the Arizona department of agriculture,  
26 the board of examiners of nursing care institution administrators and  
27 assisted living facility managers, the state board of dental examiners,  
28 the Arizona state board of pharmacy, the board of physical therapy, the  
29 state board of psychologist examiners, the board of athletic training, the  
30 board of occupational therapy examiners, the state board of podiatry  
31 examiners, the acupuncture board of examiners, the state board of  
32 technical registration, ~~or~~ the board of massage therapy, ~~or~~ the Arizona  
33 department of housing OR THE SECRETARY OF STATE'S OFFICE.

34 2. "Board" means the board of fingerprinting.

35 3. "Central registry exception" means notification to the  
36 department of economic security, the department of child safety or the  
37 department of health services, as appropriate, pursuant to section  
38 41-619.57 that the person is not disqualified because of a central  
39 registry check conducted pursuant to section 8-804.

40 4. "Expedited review" means an examination, in accordance with  
41 board rule, of the documents an applicant submits by the board or its  
42 hearing officer without the applicant being present.

43 5. "Good cause exception" means the issuance of a fingerprint  
44 clearance card to an employee pursuant to section 41-619.55.

1           6. "Person" means a person who is required to be fingerprinted  
2 pursuant to this article or who is subject to a central registry check and  
3 any of the following:

- 4           (a) Section 3-314.
- 5           (b) Section 8-105.
- 6           (c) Section 8-322.
- 7           (d) Section 8-463.
- 8           (e) Section 8-509.
- 9           (f) Section 8-802.
- 10          (g) Section 8-804.
- 11          (h) Section 15-183.
- 12          (i) Section 15-503.
- 13          (j) Section 15-512.
- 14          (k) Section 15-534.
- 15          (l) Section 15-763.01.
- 16          (m) Section 15-782.02.
- 17          (n) Section 15-1330.
- 18          (o) Section 15-1881.
- 19          (p) Section 17-215.
- 20          (q) Section 28-3228.
- 21          (r) Section 28-3413.
- 22          (s) Section 32-122.02.
- 23          (t) Section 32-122.05.
- 24          (u) Section 32-122.06.
- 25          (v) Section 32-823.
- 26          (w) Section 32-1232.
- 27          (x) Section 32-1276.01.
- 28          (y) Section 32-1284.
- 29          (z) Section 32-1297.01.
- 30          (aa) Section 32-1904.
- 31          (bb) Section 32-1941.
- 32          (cc) Section 32-1982.
- 33          (dd) Section 32-2022.
- 34          (ee) Section 32-2063.
- 35          (ff) Section 32-2108.01.
- 36          (gg) Section 32-2123.
- 37          (hh) Section 32-2371.
- 38          (ii) Section 32-3430.
- 39          (jj) Section 32-3620.
- 40          (kk) Section 32-3668.
- 41          (ll) Section 32-3669.
- 42          (mm) Section 32-3922.
- 43          (nn) Section 32-3924.
- 44          (oo) Section 32-4222.
- 45          (pp) Section 32-4128.



1 (qq) Section 36-113.  
2 (rr) Section 36-207.  
3 (ss) Section 36-411.  
4 (tt) Section 36-425.03.  
5 (uu) Section 36-446.04.  
6 (vv) Section 36-594.01.  
7 (ww) Section 36-594.02.  
8 (xx) Section 36-766.01.  
9 (yy) Section 36-882.  
10 (zz) Section 36-883.02.  
11 (aaa) Section 36-897.01.  
12 (bbb) Section 36-897.03.  
13 (ccc) Section 36-3008.  
14 (ddd) SECTION 41-269.02.  
15 ~~(ddd)~~ (eee) Section 41-619.53.  
16 ~~(eee)~~ (fff) Section 41-1964.  
17 ~~(fff)~~ (ggg) Section 41-1967.01.  
18 ~~(ggg)~~ (hhh) Section 41-1968.  
19 ~~(hhh)~~ (iii) Section 41-1969.  
20 ~~(iii)~~ (jjj) Section 41-2814.  
21 ~~(jjj)~~ (kkk) Section 41-4025.  
22 ~~(kkk)~~ (lll) Section 46-141, subsection A or B.  
23 ~~(lll)~~ (mmm) Section 46-321.  
24 Sec. 17. Section 41-1758, Arizona Revised Statutes, is amended to  
25 read:  
26 41-1758. Definitions  
27 In this article, unless the context otherwise requires:  
28 1. "Agency" means the supreme court, the department of economic  
29 security, the department of child safety, the department of education, the  
30 department of health services, the department of juvenile corrections, the  
31 department of emergency and military affairs, the department of public  
32 safety, the department of transportation, the state real estate  
33 department, the department of insurance and financial institutions, the  
34 board of fingerprinting, the Arizona game and fish department, the Arizona  
35 department of agriculture, the board of examiners of nursing care  
36 institution administrators and assisted living facility managers, the  
37 state board of dental examiners, the Arizona state board of pharmacy, the  
38 board of physical therapy, the state board of psychologist examiners, the  
39 board of athletic training, the board of occupational therapy examiners,  
40 the state board of podiatry examiners, the acupuncture board of examiners,  
41 the state board of technical registration, ~~or~~ the board of massage  
42 therapy, ~~or~~ the Arizona department of housing **OR THE SECRETARY OF STATE'S**  
43 **OFFICE**.  
44 2. "Division" means the fingerprinting division in the department  
45 of public safety.

1           3. "Electronic or internet-based fingerprinting services" means a  
2 secure system for digitizing applicant fingerprints and transmitting the  
3 applicant data and fingerprints of a person or entity submitting  
4 fingerprints to the department of public safety for any authorized purpose  
5 under this title. For the purposes of this paragraph, "secure system"  
6 means a system that complies with the information technology security  
7 policy approved by the department of public safety.

8           4. "Good cause exception" means the issuance of a fingerprint  
9 clearance card to an applicant pursuant to section 41-619.55.

10          5. "Person" means a person who is required to be fingerprinted  
11 pursuant to any of the following:

- 12           (a) Section 3-314.
- 13           (b) Section 8-105.
- 14           (c) Section 8-322.
- 15           (d) Section 8-463.
- 16           (e) Section 8-509.
- 17           (f) Section 8-802.
- 18           (g) Section 15-183.
- 19           (h) Section 15-503.
- 20           (i) Section 15-512.
- 21           (j) Section 15-534.
- 22           (k) Section 15-763.01.
- 23           (l) Section 15-782.02.
- 24           (m) Section 15-1330.
- 25           (n) Section 15-1881.
- 26           (o) Section 17-215.
- 27           (p) Section 28-3228.
- 28           (q) Section 28-3413.
- 29           (r) Section 32-122.02.
- 30           (s) Section 32-122.05.
- 31           (t) Section 32-122.06.
- 32           (u) Section 32-823.
- 33           (v) Section 32-1232.
- 34           (w) Section 32-1276.01.
- 35           (x) Section 32-1284.
- 36           (y) Section 32-1297.01.
- 37           (z) Section 32-1904.
- 38           (aa) Section 32-1941.
- 39           (bb) Section 32-1982.
- 40           (cc) Section 32-2022.
- 41           (dd) Section 32-2063.
- 42           (ee) Section 32-2108.01.
- 43           (ff) Section 32-2123.
- 44           (gg) Section 32-2371.
- 45           (hh) Section 32-3430.

- 1 (ii) Section 32-3620.
- 2 (jj) Section 32-3668.
- 3 (kk) Section 32-3669.
- 4 (ll) Section 32-3922.
- 5 (mm) Section 32-3924.
- 6 (nn) Section 32-4128.
- 7 (oo) Section 32-4222.
- 8 (pp) Section 36-113.
- 9 (qq) Section 36-207.
- 10 (rr) Section 36-411.
- 11 (ss) Section 36-425.03.
- 12 (tt) Section 36-446.04.
- 13 (uu) Section 36-594.01.
- 14 (vv) Section 36-594.02.
- 15 (ww) Section 36-766.01.
- 16 (xx) Section 36-882.
- 17 (yy) Section 36-883.02.
- 18 (zz) Section 36-897.01.
- 19 (aaa) Section 36-897.03.
- 20 (bbb) Section 36-3008.
- 21 (ccc) SECTION 41-269.02.
- 22 ~~(ddd)~~ (ddd) Section 41-619.52.
- 23 ~~(eee)~~ (eee) Section 41-619.53.
- 24 ~~(fff)~~ (fff) Section 41-1964.
- 25 ~~(ggg)~~ (ggg) Section 41-1967.01.
- 26 ~~(hhh)~~ (hhh) Section 41-1968.
- 27 ~~(iii)~~ (iii) Section 41-1969.
- 28 ~~(jjj)~~ (jjj) Section 41-2814.
- 29 ~~(kkk)~~ (kkk) Section 41-4025.
- 30 ~~(lll)~~ (lll) Section 46-141, subsection A or B.
- 31 ~~(mmm)~~ (mmm) Section 46-321.

32 6. "Vulnerable adult" has the same meaning prescribed in section  
33 13-3623.

34 Sec. 18. Section 41-1758.01, Arizona Revised Statutes, is amended  
35 to read:

36 41-1758.01. Fingerprinting division: powers and duties

37 A. The fingerprinting division is established in the department of  
38 public safety and shall:

39 1. Conduct fingerprint background checks for persons and applicants  
40 who are seeking licenses from state agencies, employment with licensees,  
41 contract providers and state agencies or employment or educational  
42 opportunities with agencies that require fingerprint background checks  
43 pursuant to sections 3-314, 8-105, 8-322, 8-463, 8-509, 8-802, 15-183,  
44 15-503, 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215,  
45 28-3228, 28-3413, 32-122.02, 32-122.05, 32-122.06, 32-823, 32-1232,

1 32-1276.01, 32-1284, 32-1297.01, 32-1904, 32-1941, 32-1982, 32-2022,  
2 32-2063, 32-2108.01, 32-2123, 32-2371, 32-3430, 32-3620, 32-3668, 32-3669,  
3 32-3922, 32-3924, 32-4128, 32-4222, 36-113, 36-207, 36-411, 36-425.03,  
4 36-446.04, 36-594.01, 36-594.02, 36-766.01, 36-882, 36-883.02, 36-897.01,  
5 36-897.03, 36-3008, 41-269.02, 41-619.52, 41-619.53, 41-1964, 41-1967.01,  
6 41-1968, 41-1969, 41-2814, ~~AND~~ AND 41-4025, section 46-141, subsection A or B  
7 and section 46-321.

8 2. Issue fingerprint clearance cards. On issuance, a fingerprint  
9 clearance card becomes the personal property of the cardholder and the  
10 cardholder shall retain possession of the fingerprint clearance card.

11 3. On submission of an application for a fingerprint clearance  
12 card, collect the fees established by the board of fingerprinting pursuant  
13 to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147,  
14 the monies collected in the board of fingerprinting fund.

15 4. Inform in writing each person who submits fingerprints for a  
16 fingerprint background check of the right to petition the board of  
17 fingerprinting for a good cause exception pursuant to section 41-1758.03,  
18 41-1758.04 or 41-1758.07.

19 5. If after conducting a state and federal criminal history records  
20 check the division determines that it is not authorized to issue a  
21 fingerprint clearance card to a person, inform the person in writing that  
22 the division is not authorized to issue a fingerprint clearance card. The  
23 notice shall include the criminal history information on which the denial  
24 was based. This criminal history information is subject to dissemination  
25 restrictions pursuant to section 41-1750 and Public Law 92-544.

26 6. Notify the person in writing if the division suspends, revokes  
27 or places a driving restriction notation on a fingerprint clearance card  
28 pursuant to section 41-1758.04. The notice shall include the criminal  
29 history information on which the suspension, revocation or placement of  
30 the driving restriction notation was based. This criminal history  
31 information is subject to dissemination restrictions pursuant to section  
32 41-1750 and Public Law 92-544.

33 7. Administer and enforce this article.

34 B. The fingerprinting division may contract for electronic or  
35 internet-based fingerprinting services through an entity or entities for  
36 the acquisition and transmission of applicant fingerprint and data  
37 submissions to the department, including identity verified fingerprints  
38 pursuant to section 15-106. The entity or entities contracted by the  
39 department of public safety may charge the applicant a fee for services  
40 provided pursuant to this article. The entity or entities contracted by  
41 the department of public safety shall comply with:

42 1. All information privacy and security measures and submission  
43 standards established by the department of public safety.

44 2. The information technology security policy approved by the  
45 department of public safety.