

CALIFORNIA NOTARY LAWS & EXAM PREPARATION

**Notary Public
Pre-Seminar
Study Guide
Chapters 1 & 2 for Preview**

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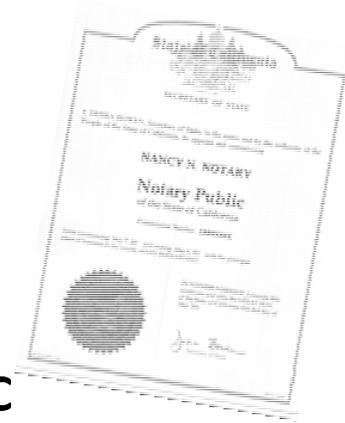
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CHAPTER 1

THE OFFICE OF THE NOTARY PUBLIC



What is a Notary Public?

The notary public office exists primarily to protect the public by helping to minimize fraud. California Government and Civil Codes describe most notary requirements and conduct.

The California Secretary of State may appoint notaries public as necessary for the public convenience. Notaries in California are generally commissioned for a period of (4) four year terms after which a notary wishing to re-commission must re-apply for another term. Notaries typically serve the entire four years unless they have been appointed to a military base or a public entity such as a school district.

Geographical Limitations for Providing Service

Except for notaries who are appointed on a military base, notaries commissioned in California **may** notarize documents **anywhere** within the state of California, but only while physically present in the state of California. Notaries who are appointed to a naval or military reservation are limited to providing services only within the boundaries of that reservation.

Governed by the Laws of California

A California notary is **governed by the laws of the State California** which is important to know if notarizing signatures on documents that originate from other states or countries. Indeed, California notaries may perform notary services for clients with documents that originate anywhere and even in any language whether or not the notary understands the language.



This is because a notary seal on a document concerns the **signature process** and guarantees that notarial procedure was followed

regarding the **signing of the document** but does not guarantee or legalize the contents within the document. So, if there is no place on the document for someone to sign, the notary has nothing to notarize.

However, other states and countries may expect or require that a notary in that state or country perform an action that is illegal for a California notary. For example, they may want a notary to place a notary seal on a document that does not need to be signed. California notaries must follow California notary laws and may never comply with notarial requests that are prohibited by the California Secretary of State. This also means that a California notary only needs to learn California notary law and not the notary laws of every other state or country.

Impartial Witness

A notary may never notarize his or her own signature (obviously) but also may not notarize any signatures on any document which the notary has a **direct beneficial or financial interest**. The notary must always remain an **impartial witness**.

Beneficial interest applied to specific circumstances

Sometimes it is not always easy to determine whether or not a notary has a beneficial interest in a document. There are some specific guidelines directly from the California Secretary of State that notaries should use to help determine when they would have a beneficial or financial interest.

With respect to **a financial transaction**, a notary, acting in the capacity of an attorney, agent, employee, insurer, escrow, or lender for the person having a direct beneficial or financial interest in the document has **NO beneficial interest in the transaction and MAY notarize** the document.

Financial interest applied to specific circumstances

With respect to **real-estate transactions**, a notary who is named individually as a **Grantor, Grantee, Mortgagor, Mortgagee, Trustor, Trustee, Beneficiary, Vendor, Vendee, Lessor, or Lessee** to the transaction **IS** determined to have a beneficial or financial interest in the document and may **NOT** notarize that document.

Notarizing for spouses, domestic partners and relatives

As long as the notary does not have a beneficial or financial interest in the document, a notary is permitted to notarize for a spouse, domestic partner, or relative, the notary should be very cautious concerning these documents, especially documents that may relate to community property.

If the notary is in doubt as to whether or not to notarize, the notary should consult an attorney.

General Guidelines for the Duties of a Notary Public

When notarial services are required, the notary will complete a **“Notary Act”**. Regardless of the specific notary act, there are always general notarial procedures that must always be followed.

- The signer must personally appear before the notary public.
- The notary must properly identify the person who appears for notarization.
- The notary must complete a journal entry for every notary act performed.
- The notary must truthfully complete correct notarial verbiage on the document or, if necessary, attach the completed verbiage to the document.
- The notary must use an official notary seal (stamp) to complete the notary act.

Taking Acknowledgments and Administering Jurats

The two most often completed notary acts taking an acknowledgment and administering a jurat. We will go into great detail concerning both of these in Chapter 4 so all we need to do for now is to briefly describe the differences.

Taking an acknowledgment means that a document signer “acknowledges” signing the document before the notary whereas administering a Jurat requires that the document signer “swears or affirms” the truthfulness of the document before a notary. Most notaries take many more acknowledgments than they do administer jurats, but these two notary acts together make up the overwhelming majority of the notary’s duties.

Certify a copy of a Power of Attorney

A **Power of Attorney** is a document that grants the legal authority for someone to sign on behalf of another person. Quite often, for example, a spouse may execute a Power of Attorney to the other spouse in case documents must be signed when one spouse cannot appear before a notary at the time of notarization.



Certifying a copy means that the notary compared the **original document** to the copy and the copy is certified to be a true and exact representation of the original document. **California Probate Code** (not the California Government or Civil Code) determines that a Certified Copy of a Power of Attorney will have the same force and

effect as the original.

To complete a Certification of a Power of Attorney, the requester must present the **original Power of Attorney** and the notary should make a photocopy of that original.

If the notary is unable to make a photocopy but is presented with a photocopy from the requester or any other party, the notary must compare word for word ensuring that the copy has not be modified in any manner.

The notary will then need to complete the following notarial wording.

State of California
County of _____

I _____, Notary Public, certify that on _____, I have examined the original Power of Attorney and the copy of the Power of Attorney. I further certify that the copy is a true and correct copy of the original Power of Attorney.

Signature of Notary Public

Notary Public Seal

Certify a copy of a Journal records

It is possible that the Secretary of State may require the notary to send a certified copy of a journal record or combination of records that may, for example, be used as part of an investigation. If the notary receives such a request, **it is the duty of the notary to respond** in the time specified in the request.

Responding to the Secretary of State

A notary public has an additional duty to respond to any written request from the Secretary of State. A notary public must respond within 30 calendar days of receiving a written request from the California Secretary of State, or whatever time-frame is required.



CHAPTER 2

BECOMING A NOTARY PUBLIC IN CALIFORNIA

Qualifications to become a California notary public...

- **Must be at least 18 years of age.**

- **Must be a legal resident of California.**
 - Unless the notary is to be appointed on a military or naval reservation, the notary applicant is not required to be a U.S. Citizen but must be a legal resident of California. A legal resident of California requires a permanent residence address in California which must be noted on the notary application.

 - No minimum time of residency is required but if the applicant is not a U.S. Citizen, an alien number or USCIS number will be required on the notary application.

 - If the applicant is appointed to serve on a military or naval reservation, he or she must be a United States citizen but is not required to be a resident of California.

- **Must pass a criminal background check.**
- All notary applicants must submit fingerprints to the **Department of Justice (DOJ) within one year of satisfactorily completing the examination.** That is because the exam results are only valid for one year.

The DOJ will forward the prints to the FBI and both will advise the Secretary of State whether the applicant has a criminal history anywhere in the country. The Secretary of State will be notified of any results as well as any subsequent arrests.

The Secretary of State may recommend denial of your application for the conviction of a felony or any other disqualifying criminal conviction. You may want to review the Secretary of State disciplinary guidelines at

<http://www.sos.ca.gov/business/notary/disciplinary-guidelines.htm> for more information.

Fingerprinting results are valid for six (6) months so if you experience any delays in processing, fingerprints will not need to be re-taken within those six months. Delays exceeding six (6) months will require fingerprint resubmission and processing.

- **Submit an application to the Secretary of State .**
- All notary applicants must submit an application form each time they apply for a commission. A notary application can be found on the California Secretary of State's website at www.sos.ca.gov/business/notary/, but of course, an application is also included in this course for your convenience which will be completed and submitted to the testing proctors when registering for the notary examination.

The application fee is \$20 and made payable to the Secretary of State. The testing fee is also \$20 and should be included in the payment for the original application so that the total is \$40 unless re-testing. Re-testing does not require a new application fee so the amount for re-testing is only \$20. The payment must be made at the time of testing and is payable only by check or money orders.

Cash or credit cards will not be accepted. Checks without addresses or check numbers (temporary checks) are also not accepted. **If the applicant's check is returned for insufficient funds, the application will be cancelled!**

- Submission of the notary application also requires that a 2" x 2" color passport style photograph be included in the application package. If a photograph is not included or the photograph does not meet the "passport style" requirements, the entire application will be returned without processing.
- **Must complete a state approved notary educational course.**
- All notary applicants for California must satisfactorily complete a Secretary of State approved six-hour course prior to appointment. You should note that all persons being appointed, no matter how many notary public commission terms that person has held in the past, unless they are currently commissioned at the time the application is received by the Secretary of State, are required to take the six-hour course of study.
- Current California notaries public with a valid notary public commission who have completed an approved six-hour course of study at least once may elect to satisfactorily complete an approved **three-hour refresher course** prior to reappointment rather than the full six-hour course.
- An approved three-hour refresher course is only acceptable if the notary public applies for reappointment before expiration of the current notary public commission. If the notary public commission expires before satisfactorily completing the course or the Secretary of State receives the completed application, the person must take another approved six-hour course before being reappointed as a notary public.
- If the notary applicant seeking re-commission is required to re-submit an application for any reason and the Secretary of State receives that application **after the current commission expires**, the applicant must have satisfactorily completed **the full 6-hour notary** education course. Simply taking an additional 3 hours (in an effort to make up the six hours) is not allowed.

- For example, suppose your commission expires just a few days from today and you plan on submitting your application and will take your examination today. You may qualify to take the 3-hour course, but if your application is returned to you because it is incomplete, or you do not pass the examination and it is returned to you for re-submission, you will be required to take the full 6-hour course. This is because **re-examinations cannot be taken within the same calendar month!**
- The notary applicant must submit a **“Proof of Completion”** for the required educational class to the Secretary of State along with the application for commission.

PROOF OF COMPLETION
THIS IS TO CERTIFY THAT _____
(Name of notary public applicant or notary public attending the approved seminar)
HAS SATISFACTORILY COMPLETED THE FOLLOWING COURSE OF STUDY, AS REQUIRED BY THE STATE OF CALIFORNIA, SECRETARY OF STATE FOR NOTARY PUBLIC EDUCATIONAL REQUIREMENTS
**California Notary Laws and Exam Preparation
6-Hour Seminar Course**
THIS _____ DAY OF _____, _____
Identifying information:
Type of identifying information: _____
Identifying number: _____
State or territory of issuance: _____
Expiration date: _____
Vendor Name: NOTARYCLASSES.COM
Vendor Number: _____
Agency: _____
Name of instructor: _____
Authorized Signature: _____
Date of Issuance: _____
(1) Proof of completion shall be valid for a period of two (2) years from the date of issuance.
(2) Proof of completion must be attached to the notary public application when submitted to Secretary of State.

Applications and Proof of Completions are usually submitted at the examination site. If your application is returned for any reason, keep in mind that The Proof of Completion is valid for **two (2) years**.

- Notaries seeking re-commission who have satisfactorily completed another 6-hour course within **two years** of applying for reappointment as a notary public are deemed to have satisfied the 3-hour course requirement.
 - Remember that the exam results are valid for one (1) year but the Proof of Completion is valid for two (2) years.
- **Take and pass the notary public examination.**
- All notaries public applicants must take and pass a written, proctored, closed book examination with a score of 70% or greater. The exam consists of thirty (30) multiple-choice questions covering California notary law and a maximum of fifty (50) minutes is allowed to take the exam.

- **Taking a re-examination**
 - If you do not pass the initial exam, you must wait until the following calendar month in order to retake your notary exam. Exam questions are changed every calendar month. Testing fees are only \$20 and are payable to the Secretary of State.

Addresses on the application

An applicant must provide both a business address and a residence address on the Notary Public Application. The notary public applicant may provide a mailing address that is different from their business and residence addresses.

Name of business

As part of the business address, a notary public must **state the name of the business for which the notary public will perform a majority of their notarial services**. Notaries who will perform services for an employer, or at their employer's business location, should list the name and address of their employer.

If the notary public is not performing a majority of their notarial services for an employer, is not employed or is self-employed, then the Secretary of State's office requests that **"self" or "self-employed"** be entered for the name of the business on the application.

If there will be no single location where the notary public will perform a majority of their notarial services, the business address will be the **location where the notary public performs the greatest number of services, or the address where the notary public receives mail related to their notary public commission**.

The notary will be commissioned in the county which is listed as the primary county of business regardless of the county of residence!

Post office boxes

A notary public may **not** use a private commercial mailbox or post office box as the address for his or her residence or

principal place of business **unless** the notary public also provides the California Secretary of State with a **physical street address of their principal place of residence**. The California Secretary of State must have record of a notary public's actual residence address.

Mailing address

A mailing address different from the business and residence addresses is not required **but, may be used** if a notary public receives mail at a post office box or private commercial mailbox.

Disclosure of arrests, convictions, and pending trials

The application will also include information regarding criminal arrests or convictions, which will be used by the Secretary of State to complete your background check.

An applicant must disclose any arrests for which trial is pending and any conviction, **whether or not the conviction may be a disqualifying conviction**, and regardless of where and when the conviction occurred, including any dismissed convictions upon completion of probation. (See California Penal Code sections 1203.4 or 1203.4a) **Juvenile convictions and traffic offences may be excluded.**

Convictions and arrests for which a trial is pending must also be disclosed, even those convictions that were disclosed on a previous application. **Failure to list convictions or arrests for which a trial is pending may be noted by the Secretary of State as a substantial and material misstatement and/or omission on your application, and may be cause for denial of commission.**

The key point to remember is that the application for appointment as a notary public must be complete without any omission or misstatement of required information. If you cannot recall the specifics about your arrest(s) and/or conviction(s), you can contact the California Department of Justice at (916) 227-3849.

Note regarding the live scan results

If you contact the Secretary of State regarding the status of your commission, please note that if the response from the Secretary of State is that they have not

yet received your live scan (fingerprints), **that usually means that they have not received the results back from the FBI or the DOJ.** It does not necessarily mean that the DOJ or FBI has not received the prints. Be sure to save your form from the live scan company so you can follow up if there are any delays. You will need the **ATI number** on that form. Submit your fingerprints early! The earlier the better!

Child support requirements

Anyone not in compliance with **child support payments** may have their applications denied or may receive a temporary commission only. Notaries who do not remain in compliance with child support requirements may have their commissions suspended or revoked by the Secretary of State.

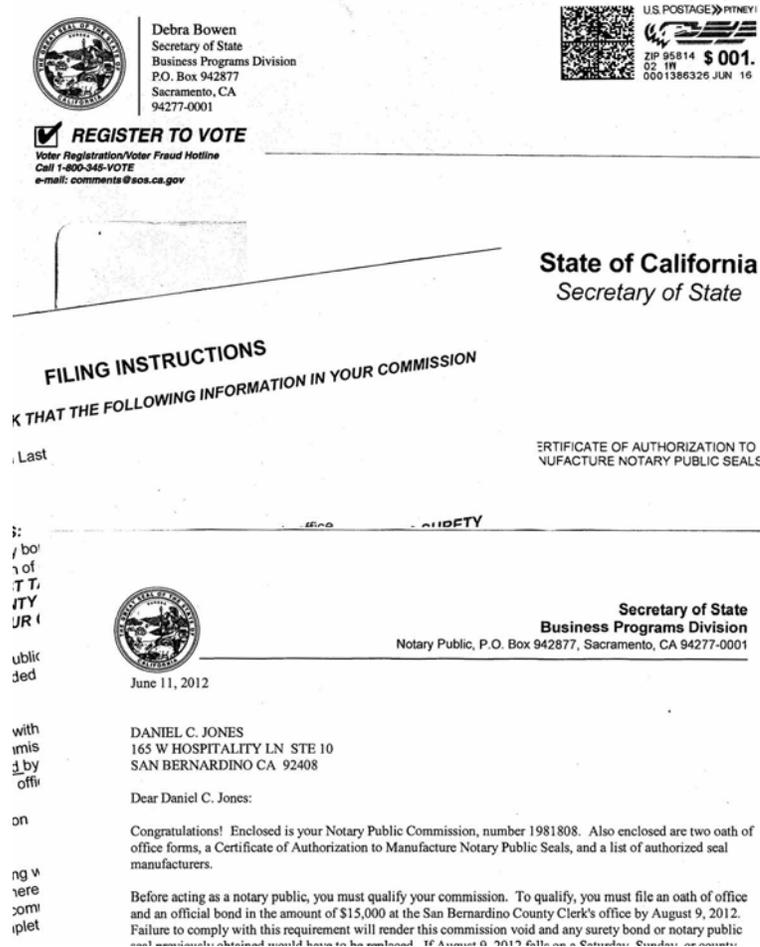
What you can expect in a few weeks

You will receive notification of passing your notary exam by email in **15 to 20 business days.** After passing your exam, you simply need to wait for the completion of your criminal background check.

When you complete your notary application, you may choose to list your email address on the top right portion of the application. If you do that, be sure it is legible and accurate. This will allow emails regarding your application if there are any questions and, you should also receive an email regarding your examination results. If you do not receive an email, and need to log into the website to find your score, you may need to call the CPS at (916) 263-3520 to obtain a password.

Do not request your scores over the phone as the CPS is prohibited from giving scores out over the phone in order to maintain the privacy of all applicants. The Secretary of State processes notary commissions and processing times depend on many factors, but it may not be unusual for the processing times to exceed 15 weeks. Once your background check clears and your application is approved, you will receive your commission in the mail.

Receiving your commission packet in the mail



Upon receipt of your letter of commission, you will have thirty **(30) calendar days** from the commencement date stated on your letter of commission as the date the commission was granted **to obtain a bond, take an oath, and subscribe and file both** with the **Office of the County Clerk in the county** in which you indicate on your application will be your **principal county of business**.

The notary public's commission becomes valid on the date that the notary public files their oath of office and a surety bond with the county clerk's office.

Your notary surety bond must be purchased from a **California admitted surety company** and must be in the amount of \$15,000. The notary **and the surety company named on the bond** are **financially** liable for notarial acts completed improperly, illegally, or through negligence. The bond offers protection to the public in the event the notary is found financially liable for negligent or misconduct and in no way protects you. This bond is not liability insurance for

you! It is designed as a limited source of funds, but the notary may be responsible for repayment to the surety company in addition to any amount of liability above the \$15,000. Although it is not legally required, many notaries purchase a separate **Errors and Omissions** insurance policy for additional personal protection.

Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
One Tower Square, Hartford, Connecticut 06183

NOTARY PUBLIC ERRORS AND OMISSIONS POLICY

Policy No.: 10572800262
Term Premium: \$170.00
Policy Effective Date: June 15, 2012

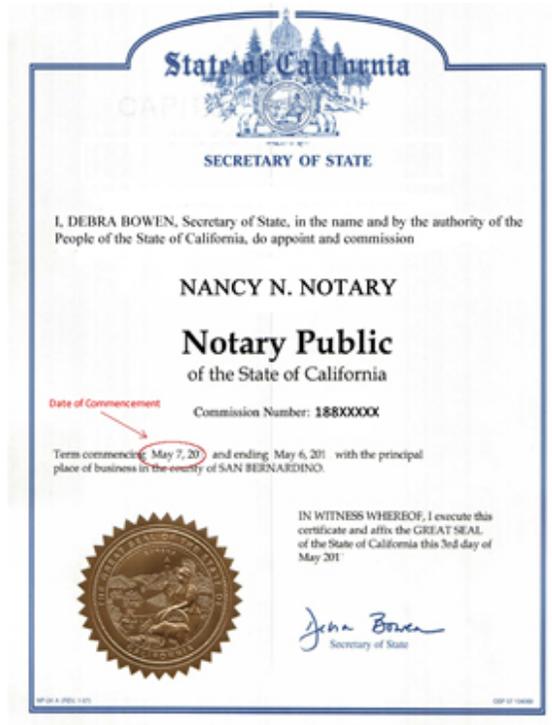
The Company will pay on behalf of Daniel C. Jones
of 165 W. Hospitality Ln Ste. 10 San Bernardino CA 92408 (the "Insured"),
all sums which the Insured shall become obligated to pay by reason of liability for breach of duty while acting as a duly commissioned and sworn

Filing your oath and bond

You may take and subscribe your oath at the office of the County Clerk or in front of another notary public **within that same county where the oath and bond are to be filed**. The notary will require the oath and will notarize your signature on the document to be filed, and if you send it to the county recorder by mail, **it must be sent by Certified Mail**.

If you choose to send it by certified mail, you, the applicant will bear responsibility for both the oath and bond to be satisfactorily received **and filed** within the 30-day period. Please note that the thirty (30) calendar days begin on the day the commission was granted and is stated on the Letter of Commission and not the day you received the letter from the Secretary of State.

When you file your oath and bond with the county recorder, it will be necessary to pay two fees to the county: a recording fee and a filing fee. The fees can differ significantly by county.



Your commission is not valid until you have satisfactorily taken, subscribed, and filed the oath and bond. **Failure to file your oath and bond within 30 calendar days will result in voidance of your commission.** If your commission is voided, you will need to reapply all over again and **pay \$20** to submit a new notary application, and you may need to resubmit fingerprints via live scan again but, unless more than one year has gone by, you will not need to retake the exam and neither will you need to re-take the notary course since the Proof of Completion is good for two years.

Not a commissioned notary until oath and bond are on file

Any person who provides notarial services or advertises as a notary public without being a duly commissioned notary is guilty of a **misdemeanor**, but if the act relates to documents associated with a Deed of Trust, it becomes a felony.

Authorization to manufacture notary seals

When you receive the letter of commission from the Secretary of State, you will also receive a **letter of authorization** to manufacture your Notary Seal and a listing of authorized seal manufacturers. You will send your original authorization to the seal manufacturer of your choice. If, for any reason, you must manufacture additional seals anytime during your commission, **you must obtain**

authorization from the Secretary of State who will forward you a new authorization to manufacture a notary seal.

CERTIFICATE OF AUTHORIZATION TO
MANUFACTURE NOTARY PUBLIC SEALS

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

notary public commission, number 1888748, has been issued to [REDACTED] for the State of California, term commencing NOVEMBER 20, 2012 and ending NOVEMBER 19, 2016, in the county of URA.

Also notice above that the commission term is 4-years. In this case it begins on November 20, 2012 and ends on November 19, 2016 at midnight, **not** November 20!