

**SUMMARY OF THE NEW LAWS AFFECTING NOTARIES PUBLIC  
BEGINNING JANUARY 1, 2008**

Notary Publics in California will be affected by many changes in notary law effective January 1, 2008. NotaryClasses.com believes that it is imperative that all notaries public receive this information quickly and without cost so we have adapted the summary of changes provided by the Secretary of State and provided comments in plain English. This document may be copied and distributed in its entirety at will, but no portion of this document may be copied and distributed in any manner unless accompanied by the entire text.

The following section highlights the portions we feel most likely to be of interest to most notaries public. If you would like to read all of the changes and the listing of the Civil and Government codes, please refer to the end section of this document. We have included a copy of the Summary of Changes including the pertinent codes as distributed in its entirety by the Secretary of State in November of 2007.

### **Changes regarding Acknowledgments and Jurats**

Prior to 2008, the notary was permitted to use personal knowledge alone in identifying the document signer when completing acknowledgments and jurats. After January 1, 2008, the notary must require acceptable identification even if he or she is personally known by the notary. The person making an acknowledgment or executing a jurat must present an acceptable form of identification such as a driver's license, passport, etc. Laws regarding what may be used as acceptable identification did not change.

If the person making the acknowledgment or completing the jurat (document signer) does not have an acceptable identification document available, and circumstances make it very difficult or impossible to obtain an acceptable identification document, the notary may still use the credible witness procedure to verify his or her identity. The notary may use one credible witness if the credible witness is known by the notary or the notary may use two credible witnesses if neither is personally known by the notary.

**Beginning 2008, when using one credible witness who is personally known by the notary, the credible witness must also prove his or her identity with an acceptable identification document.**

Prior to 2008, a single credible witness, personally known by the notary did not prove his or her identity to the notary with an identification document. The new law in effect January 1, 2008, still requires that the notary personally know the credible witness, but an identification document must also be presented by that credible witness to the notary. Of course, two credible witnesses who know the document signer but are not known personally by the notary may still be used and they will both prove their identity to the notary with acceptable identification documents.

In summary, the important change for 2008 regarding "personal knowledge" is that a notary may not rely on personal knowledge alone for establishing identity when completing an

acknowledgment or jurat or when using a single credible witness. The journal entry must now indicate the identification document used in establishing identity even if the signer is personally known by the notary. If using a single credible witness to establish identity, the notary must still personally know the credible witness, but that credible witness must also provide an acceptable identification to the notary and that information must be included in the journal.

**\*\*\*Keep in mind that the personal knowledge laws for subscribing witnesses have not changed! Identification documents are still not used when completing a Subscribing Witness procedure unless a credible witness is used. The notary must still personally know the subscribing witness or must personally know the credible witness if used for this procedure. If a credible witness is used, the credible witness must still provide an acceptable identification document to the notary.**

If you are unfamiliar with the procedure for credible witnesses or subscribing witnesses, download our Notary Home Study Course for free from NotaryClasses.com for closer review.

2008 Acknowledgments also require the following statement just above “WITNESS my hand and official seal”:

**I certify under PEALTY OF PERJURY under the laws of the state of California that the foregoing paragraph is true and correct.**

Because personal knowledge alone is no longer acceptable for these notary procedures, and because the “Perjury” clause has been added to the Acknowledgment certificate, both the **Certificate of Acknowledgment and the Jurat have been changed to reflect this new law.** Beginning January 1, 2008, the notary MUST use the new Acknowledgment and Jurat wording.

**The new Acknowledgment wording now reads as follows:**

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ ,  
(Name of notary and title)

personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PEALTY OF PERJURY under the laws of the state of California that the foregoing paragraph is true and correct..

WITNESS my hand and official seal.

\_\_\_\_\_  
(SIGNATURE OF NOTARY) (Notary Seal)

**Jurat wording is also modified under these new laws to remove “personally known” and now reads as follows:**

State of California  
County of \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

\_\_\_\_\_  
Signature (Notary Seal)

**You will need to obtain new Acknowledgment forms and Jurat forms beginning January 1, 2008. DO NOT USE THESE FORMS UNTIL JANUARY 1, 2008!**

**NotaryClasses.com is making 2008  
ACKNOWLEDGMENT AND JURAT FORMS  
available at no charge!**

**Go to [www.NotaryClasses.com](http://www.NotaryClasses.com) to download  
these new forms.**

Of course, very few if any pre-printed documents will have this new wording on the Acknowledgment or Jurat section. Unless the document will be recorded in a different state, such as with a Deed for a property located in that state, the notary must use exact wording for all acknowledgements taken in California and regardless of where the document is being recorded, the notary must use the exact wording for all jurats completed within California. If acknowledgment wording is incorrect, the notary should attach a correct Certificate of Acknowledgment to the document. The Secretary of State also recommends that old jurat wording be replaced in its entirety rather than crossing off the "personally known" portion of the old jurat. This can be done with either a 2008 jurat stamp or attaching a corrected jurat form to the document. 2008 jurat stamps are available for purchase from NotaryClasses.com but feel free to download the 2008 Jurat form at no charge.

**Be sure to carry a supply of these new forms with you and give your colleagues these forms as well. Every notary must be in compliance with these new laws!**

The notary's failure to obtain proper identification when completing an acknowledgment can subject the notary to a fine of up to \$10,000 since the notary must sign UNDER PENALTY OF PERJURY that the document signer PROVED his or her identity to the notary. While there is no wording on the Jurat form regarding the notary signing under PENALTY OF PERJURY, the notary should realize that under the new **Civil Code section 1189**, since a notary public who willfully states as true any material fact known to be false can be subject to a civil penalty of up to \$10,000.

## **Changes regarding Journals and Journal entries**

As previously stated, when completing the journal entry, the notary should no longer indicate simply “personal knowledge” regarding the identity of a document signer. The notary must specify the type of identification document used, the serial number of the identification document and either the date of issuance or expiration of the identification document.

### **Thumbprints**

Prior to January 1, 2008, the notary was required to obtain a right thumbprint in the journal only if the document was a Deed or Deed of Trust. The new 2008 law adds a Power of Attorney to the list of documents for which a notary must require a right thumbprint.

**Failure to obtain thumbprint:** A notary public who fails to obtain a thumbprint as required for these three types of documents is subject to a civil penalty up to \$2,500. Of course, common practice is to obtain a thumbprint for every notary act and is still a good idea as long as the signer does not object. If the signer refuses to provide a thumbprint for the required documents, the notary act must be denied. For this reason, we recommend that Notaries Publics should complete the journal entry along with the thumbprint when required prior to completing the notary wording.

### **Submission of Journals**

As always, notary journals are the property of the notary regardless of who paid for them and journals must be kept exclusively under the control of the notary. Notaries public never give a journal to anyone except by order of a subpoena, court order or under the official request of a peace officer or the Secretary of State. If requested by the Secretary of State, the notary must comply within the time frame provided in the request. Upon receipt of a subpoena or court order, the notary must provide the journal for examination and copying in the presence of the notary and must certify the copies if requested.

If a notary is presented with a request from the public for a copy of a line item from the journal, the request must include 1) The name of the parties 2) The type of document and 3) The month and year in which the notary act occurred. A new 2008 law requires that the notary respond to such a request within 15 business days and must either provide a photostatic copy of the journal entry or acknowledge that no such line item exists. When requested by a peace officer investigating a criminal offense, a notary public must surrender his or her journal immediately or as soon as possible if the journal is not present.

Willful failure of a notary public to provide a peace officer with a journal when requested is punishable by a civil penalty of up to \$2,500.

## **Notary Commissions after January 1, 2008**

### **Live Scan Requirements**

All notary applicants seeking commission after January 1, 2008 must complete fingerprint submissions via live scan prior to commissioning. The live scan must be completed for newly

commissioned notaries public as well as those seeking recommissions. The fingerprints will be sent to the Department of Justice and under the new law, will also be sent to the FBI for background investigation.

For notaries public seeking recommission, if your current commission ends anytime after January 1, 2008, you will be required to complete this live scan process prior to recommissioning.

### **Photographs**

All notary applicants seeking commission after January 1, 2008 must also submit a 2" x 2" passport photograph along with their application.

**Change in location.** A notary public may not use a commercial mail receiving agency or post office box as his or her principal place of business or residence unless the notary public provides the Secretary of State with a physical street address as the principal place of residence. Willful failure to notify the Secretary of State of a change of address is now punishable as an infraction by a fine of up to \$500.

### **Grounds for Commission refusal, suspension or revocation**

New grounds for denial of an application or revocation or suspension have been added for crimes connected to notarial acts: making a false writing, fraud relating to a deed of trust, improper notarial acts, unlawfully acting as a notary public, filing false or forged documents, forgery, embezzlement, and falsely obtaining personal information. Also, willful failure to provide access to a journal when requested by a police officer is now grounds for revocation or suspension.

Willful failure to report the theft or loss of a journal is now expressly stated as grounds for revocation or suspension of a notary public.

Assembly Bill 886 (Chapter 399, Statutes of 2007) and Assembly Bill 434 (Chapter 496, Statutes of 2007) make a number of significant changes in notarial law. The text of the new laws can be found at: [www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_0851-0900/ab\\_886\\_bill\\_20071010\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0851-0900/ab_886_bill_20071010_chaptered.pdf) and [www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_0401-0450/ab\\_434\\_bill\\_20071011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0401-0450/ab_434_bill_20071011_chaptered.pdf). The new laws take effect January 1, 2008.

### **Civil and Government Codes**

This portion provides the codes and verbiage for the new 2008 notary laws as provided by the Secretary of State in November 2007.

The primary changes provided by AB 886 effective January 1, 2008 are as follows:

1. **Civil Code section 1185 – Acknowledgment; requisites.** The identity of the person making an acknowledgment may no longer be established by personal knowledge alone. Under the new law, the identity of the person making the acknowledgment must be established by specified documents or a credible witness who is personally known to the notary public and proves their identity by specified documents. Violation of the section subjects a notary

public to a civil penalty of up to \$10,000 in an administrative action brought by the Secretary of State or a public prosecutor.

2. **Civil Code section 1189 – Certificate of Acknowledgment.** The certificate of acknowledgment is now executed under penalty of perjury. A notary public who willfully states as true any material fact known to be false can be subject to a civil penalty of up to \$10,000.
3. **Government Code section 6203 – Criminal offense.** A four-year statute of limitations is added to the misdemeanor crime of a notary public who makes and delivers as true any certificate or writing that contains statements known to be false.
4. **Government Code section 8201.1 – Additional qualifications; fingerprints.** Notary public applicants shall submit fingerprints to the Department of Justice for the purpose of a background check. Under the new law, the fingerprints will also be submitted to the Federal Bureau of Investigation and the Secretary of State will be informed of any results as well as any subsequent arrests.
5. **Government Code section 8201.5 – Application form.** A notary public applicant must submit a photograph of himself/herself to the Secretary of State along with the application.
6. **Government Code section 8202 – Execution of jurat.** The identity of the affiant may no longer be established by personal knowledge alone. “Personal knowledge” as a basis for identifying the affiant when executing a jurat has been deleted. “Satisfactory evidence” must be used to identify an affiant in accordance with Civil Code section 1185 (see above).
7. **Government Code section 8206 – Sequential journal.** A statement about the identity of a person making an acknowledgment, or taking an oath or affirmation must be based on “satisfactory evidence” in conformity with Civil Code section 1185 (see above). Also, a power of attorney is added to the list of notarized documents that require a thumbprint. Further, when requested by a peace officer investigating a criminal offense, a notary public must surrender his or her journal immediately or as soon as possible if the journal is not present. The peace officer must have probable cause to believe the journal contains evidence of a criminal offense. The peace officer who seizes a journal must notify the Secretary of State within 24 hours or as soon as possible of the name of the notary public whose journal was seized.
8. **Government Code section 8213.5 – Change in location.** A notary public may not use a commercial mail receiving agency or post office box as his or her principal place of business or residence unless the notary public provides the Secretary of State with a physical street address as the principal place of residence. Willful failure to notify the Secretary of State of a change of address is now punishable as an infraction by a fine of up to \$500.
9. **Government Code section 8213.6 – Name changes; application; filing.** Willful failure to notify the Secretary of State of a name change is now punishable as an infraction by a fine of up to \$500.

10. **Government Code section 8214.1 – Grounds for refusal.** Willful failure to report the theft or loss of a journal is now expressly stated as grounds for revocation or suspension of a notary public. New grounds for denial of an application or revocation or suspension have been added for crimes connected to notarial acts: making a false writing, fraud relating to a deed of trust, improper notarial acts, unlawfully acting as a notary public, filing false or forged documents, forgery, embezzlement, and falsely obtaining personal information. Also, willful failure to provide access to a journal when requested by a police officer is now grounds for revocation or suspension.
11. **Government Code section 8214.2 – Fraud deed of trust.** In addition to being guilty of a felony, a notary public who defrauds in relation to a deed of trust on real property single-family residence by means of forgery may be subject to other relief or remedies provided to the parties by law.
12. **Government Code section 8214.15 – Civil penalties.** Willful violation of subdivision (d) of Section 8214.1 (failure to discharge the duties or responsibilities of a notary public) is deleted.
13. **Government Code section 8214.21 (New Section) – Failure to provide journal, penalty.** Willful failure of a notary public to provide a peace officer with a journal when requested is punishable by a civil penalty of up to \$2,500. The Secretary of State or a public prosecutor may seek such a penalty.
14. **Government Code section 8214.23 (New Section) – Failure to obtain thumbprint, penalty.** A notary public who fails to obtain a thumbprint as required by Government Code section 8206 is subject to a civil penalty up to \$2,500. Either the Secretary of State or a public prosecutor may seek this penalty. There is a four-year statute of limitations for this offense.
15. **Government Code section 8221 – Destruction, defacement, concealment of records.** Willfully destroying, defacing, or concealing records belonging to a notary public now has a four-year statute of limitations. The criminal penalty is not the exclusive relief or remedy provided by law.
16. **Government Code section 8225 – Improper notarial acts.** The misdemeanor crime of soliciting, coercing, or influencing a notary public to perform an improper notarial act, knowing it to be improper, now has a four-year statute of limitations.
17. **Government Code section 8228 – Enforcement of chapter.** In addition to the Secretary of State, a peace officer, acting within his or her authority may also enforce this Chapter 3 of Division 1 of Title 2 of the Government Code relating to notaries public by examining a notary public's pertinent records.
18. **Government Code section 8228.1 – Willful failure to control seal.** A four-year statute of limitations is added to the misdemeanor crime of a notary public willfully failing to perform his or her required duties or failing to keep the notary public seal under his or her direct and exclusive control.

The primary change provided by AB 434 effective January 1, 2008 is:

**Government Code section 8206.5 (New Section) – Response time for a request.** A notary public must respond to a request for a transaction in the notary public journal within 15 business days after the receipt of the request and must supply either a photostatic copy of the line item or acknowledge that no such line item exists. In a disciplinary proceeding for failing to comply with this section, the notary public may raise a defense of unavoidable, exigent business or personal circumstances.