

CHAPTER 2

HOW TO BECOME A NOTARY

Chapter Objective:

This section will describe the process and the laws governing various aspects of becoming a notary. The student will be introduced to the proper steps and procedures of becoming a notary so that at any time following the course, the student will have sufficient information to complete their commissioning procedures.

Qualifications to Become a Notary Public

As with any other profession, we would expect that notaries must meet minimum qualifications. The qualifications are specified by California state law and include the following:

1. A notary in California must be a legal resident of the State of California (no minimum time required). Please note that while U.S. Citizenship is not required, the applicant must be a legal resident.
2. A notary must be at least 18 years old
3. The notary applicant must pass a written exam with a score of 70% or greater.
4. Notaries must be able to read, write and understand English.
5. All notary applicants must pass a background check.
6. All notary commissions issued after July 1, 2005 will require the completion of a state approved 6-hour notary course prior to commissioning. Subsequent commissioning will require a 3-hour refresher course prior to commissioning.

Legal Residency

As a notary applicant, you will be expected to list a permanent California address on your application at the testing site. There is no minimum time for which you must have been a California resident, but without that California address on your application, your application will be denied. As an additional note, your application will ask for a primary place of business address. If you plan to function as a notary from an office site or business address other than your home, be sure to list that address as your business address. If your primary place of business is in a county other than your residency, your commission will be within that county, not your home address county.

Age Limitation of 18

A notary may not be commissioned until he or she is 18 years of age. As you will discover in subsequent sections, it will take several weeks from the time you take your exam until you are commissioned due to fingerprinting requirements and background checks. If you are currently 17 years old, you should consider waiting until you are 18

before you take the exam since your application will be completed on the day of your exam.

The Written Exam

Beginning July 2005, all notary candidates will be required in addition to the exam, to take an approved 6-hour notary course prior to commissioning. Subsequent commissioning will require a 3-hour refresher course prior to testing.

A notary is commissioned after passing a written examination with a score of at least 70% and submitting a Proof of Completion of an approved notary course to the Secretary of State. The notary applicant may complete the registration process during the seminar or afterwards. Testing is conducted by the Cooperative Personnel Services (CPS) at locations throughout California. There are currently 30 multiple-choice questions on the exam and you must answer at least 70% correctly to pass. This means that you may not miss more than 9 questions on the Notary exam. The content of the exam is covered in the *Notary Public Handbook*. The handbook is available online at:

<http://www.ss.ca.gov/business/notary/notary.htm> and of course, this course is derived from that publication with the intent to provide assistance in explaining the regulations through an instructional format.

Your completed notary application will be submitted at the place of examination, and will then be forwarded to the **Secretary of State** for review. Please note that a fee of \$40, (\$20 for the application and \$20 for the exam) will be due at that time. You must pay with either check or money order, as the state will not accept cash. You will need to print your name and social security number at the bottom left portion of the check.

You will need to bring to the testing site identification such as:

- A valid DMV issued driver's license from any state.
- A State issued ID.
- A current U.S. or foreign passport.
- A Military ID Card

The CPS will not accept a VISA or Student ID card for identification. If you have an Alien Registration Card, you will need to know your number when you fill out the application.

If you have any further questions about your identification documents or change of name, contact the Secretary of State, Notary Division at:

Business Programs Division
Notary Public Section
P.O. Box 942877
Sacramento, CA 94277-0001
916-653-3595
916-653-9580 (fax)

Once you take the exam, you will need to wait 7 to 10 business days before your results are mailed to you; however, your results may be accessed on line at : <https://notary.cps.ca.gov> or go to www.notaryclasses.com and follow the link provided for you. You must still wait for 7-10 business days before the results will be posted. You will not be able to call the CPS for your test scores due to privacy acts and when you access the website for your results, you will need to obtain a password. The directions on

the website will provide you with a telephone number to call should you need to obtain a password by phone. Keep in mind that you will only be able to obtain a password by phone during regular business hours. Once you obtain your password, enter your social security number and password in the fields requiring this information and your testing score will be shown. You will not know which questions, if any you missed, only your raw score. If your test scores are not available yet, you will receive a message indicating that you are not in the system. Don't worry! If you took the exam and you correctly indicated your social security number on your application, you will get into the system. Keep checking day to day...you will be there soon.

Scoring less than 70% on the exam will require you to retake the exam. To re-take the exam, simply contact the CPS at

<http://notary.cps.ca.gov>

or call them at (916)263-3520 to request a new test date at a time and location suitable for you. You may retake the exam no sooner than the next calendar month and will need to bring the copy of the fail letter to the exam site along with a \$20 re-examination fee.

After the Examination

Even if you have checked the website for your test results, you will still need to wait for the pass letter to arrive by mail before taking the next step. That pass letter will include information about submitting your fingerprints required for your background check. This is called obtaining a Live Scan and the pass letter that is mailed to you will include information about where you can go to have the Live Scan completed; usually it is at a sheriff's station, not the police department. Unfortunately, you will need to go through the live scan process even if you have recently completed a live scan for another purpose.

A Notary Commission lasts four years after which a notary may apply for re-commissioning. **A notary whose commission is expiring can retake the examination no sooner than six months prior to the termination date of their commission. Commissioned notaries with less than a six-month break between commissions will not have to submit fingerprints, but notaries with more than a six-month break will be required to submit fingerprints through live scan just as a new notary.**

Background checks:

Your application is reviewed by the Secretary of State for acceptance or denial of the commission. Grounds for refusal, revocation or suspension of a notary commission include the following as found within The Notary Public Handbook:

- Substantial and material misstatement or admission in the application. Denial will be recommended for the failure to disclose any arrest or conviction! You must disclose all arrests and convictions on your application including any convictions which had later been dismissed. Call the Secretary of State, Notary Department if you have any questions about whether or not a particular incident on your record must be disclosed. If you do not recall the details concerning your arrest(s) and or conviction(s), you can contact the California Department of Justice at (916) 227-3849. See the NOTARY PUBLIC HANDBOOK, Secretary of State.
- Conviction of a felony.

- Conviction of a disqualifying misdemeanor where less than 10 years has passed since the completion of probation.

Some examples of disqualifying convictions: *(From CPS Application)*

- Accessory
- Arson-related offenses
- Assault
- Auto theft
- Battery upon a child resulting in corporal injury
- Battery upon a peace officer
- Burglary
- Carrying a concealed weapon
- Carrying a loaded firearm in a public place
- Child molestation
- Child pornography
- Conspiracy
- Discharge of a firearm in a public place or into an inhabited dwelling
- Drugs, possession for sale
- Embezzlement
- Escape without force
- Failure to comply with a court order
- Failure to pay child support
- Failure to return to confinement
- False financial statements
- False imprisonment
- Forgery
- Fraud involving, but not limited to, bank cards, credit cards, insufficient funds/checks, insurance, mail, MediCal or MediCare, real estate, tax, and welfare.
- Fraudulent impersonation of a peace officer
- Hit and run
- Kidnapping-related offenses
- Manslaughter
- Pimping and pandering
- Possession of an unregistered firearm
- Practicing without a license when a license is required
- Prostitution
- Rape
- Receipt of stolen property
- Resisting or threatening a peace officer
- Robbery
- Solicitation
- Statutory rape
- Tax evasion
- Terrorist threats
- Theft, grand and petty, including burglary and robbery
- Threats to commit a crime involving death or great bodily injury

Child Support

Applicants who are not in compliance with child support requirements may be granted temporary commissions or may be denied commissions until the candidate comes into compliance. Subsequent non-compliance may result in suspension or revocation of your commission.

Receiving Your Notary Commission

Within 8-10 weeks upon submitting your live scan, you will receive your notary **Commission from the Secretary of State**. There are times when the Secretary of State may take a few extra weeks to process these background checks, so you should not be surprised if you have not received your commission within the expected time frame. Your letter of commission will include your sequential commission number and an authorization to manufacture your notary seal. 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 application to manufacture a notary seal.

Instructions will also be provided which indicate that you have 30 calendar days to do the following:

- File a surety bond of \$15,000 (purchased from a California admitted surety firm) with the **county clerk** in the **county in which you plan to operate as your principal place of business**.
- Take, subscribe and file an oath of office with the **county clerk** in the **county in which you plan to operate as your principal place of business**.

The Surety Bond

The notary is **personally** liable for notarial acts completed improperly, illegally or through negligence. This means that if you do something illegal or neglect to fully carry out your required duties as a notary, you may be sued personally. This bond is a protection for the public against your actions (or inaction such as failing to administer an oath when required). This bond offers no protection for you as the notary. If you are held liable for damages because you did not exercise due care and diligence, you will be personally responsible to pay the damages and the bonding insurance company will aggressively seek the full return of the money spent on your behalf up to the \$15,000 bond amount. Keep in mind that the \$15,000 is not a limitation on the amount of damages for which you may be sued, it is the required amount you must have available through a licensed surety company and filed with the county clerk.

Errors and Omissions Insurance

As stated earlier, notaries are personally and financially liable for any improperly executed notary act. For this reason, notaries often choose to obtain errors and omissions insurance for financial protection. This is not a legal requirement, but it is a very good idea. Be sure to shop around for this and when comparing prices, find out whether the price quoted is for one year or for four years. Many companies quote a price for their E&O insurance but do not disclose that the renewal is yearly, thus quadrupling the price over the term of your commission. Currently, a four year \$15,000 E&O policy should run around \$45 for all four years. You can obtain higher amounts if you feel more

comfortable such as \$100,000 policies, but remember, while E&O insurance will protect you financially up to the amount of your policy, you will still be legally liable if you perform illegal or negligent notarial actions.

Taking and Subscribing your oath of office

You also have the limited time of 30 days to take and subscribe your oath of office either directly at the County Clerk's office or with another notary in the county which you have listed on your application as your primary place of business. This may be different from your county of residence. This will be the county in which you plan to perform 51% or more of your notary services. If you are working from your home, it may very well be your county of business as well.

Subscribing your oath means that you have signed a statement regarding your oath of office which states in part, that you will promise to fully and faithfully carry out the duties required of a notary public.

Filing your oath and bond

This can be done in person or by certified mail. Specific instructions about how to do that will be provided to you in the letter you receive from the Secretary of State. If you fail to file the oath and the bond within 30 calendar days, your commission will be null and void and will need to re-apply all over again and pay \$20 for re-application fee; however, your testing score is valid for a full year. Notarizing documents without a valid commission is illegal and will require all documents notarized by you after that date to be re-notarized by a duly commissioned notary. If you notarize a document which encumbers someone into property, such as a Deed of Trust, and you are not commissioned, you will be guilty of a felony! (A Deed of Trust is a document which secures a property as collateral until the loan on the property is paid in full.)

Remember that once you receive your commission, you may notarize anywhere in the State of California but you are always under the laws of California. Your stamp indicates the county where your bond and oath are filed, and does not limit your notary services to that county.

Items you will need as a notary

The most important **"tools of the notary trade"** aside from the actual notary seal are:

- 1) A notary journal
- 2) Acknowledgment Pads
- 3) Jurat stamp
- 4) Fingerprinting device

The Notary Journal

Every notarial act requires the notary to record certain information in an official **Journal of Notary Acts**. You will need to have a journal before you complete your first notarization. Once you have passed your exam, vendors of notary supplies will solicit you by mail. As with anything else you buy, contact several for pricing as they really do vary among vendors. Perhaps even more important is the style of journal you purchase.

All journals will have entries for required information, but you may find some styles more useful than others.

Acknowledgment Pads

Certain types of notary acts require you to attach an official Acknowledgment page to the document. We will discuss this in detail later, but this is another item you will want to purchase prior to your first notary assignment. You can usually use the same vendor as used for the Notary Journal as that vendor will likely have all of the necessary items required.

Jurat Stamp

The Jurat stamp will be a notary tool you will use many times. Find one with a good price but be confident of the quality before you purchase. They are really not very expensive, but a faulty Jurat stamp can be an absolute headache.

Fingerprinting Device

Some notary acts require a fingerprinting device more commonly referred to as a thumbprint pad. Look for one which is referred to as “inkless” or “disappearing” which means that while the thumbprint is permanent on the paper, the ink should rub off of the thumb leaving little or no residue or staining. Your client will thank you and you will not have to take a supply of tissues with you to each appointment.

The Notary Seal

Finally, you will need your notary seal. While you may purchase the other items listed prior to receiving your commission, you may not purchase your Notary Seal until you have received your letter of commission from the Secretary of State. The letter of commission will include a **Certificate of Authorization** to have notary seals manufactured. This must be done through a company licensed to do so by the Secretary of State. No stamp manufacturer may solicit or manufacture a Notary Seal without first being approved to do so by the Secretary of State. A listing of authorized seal manufacturers will be included in your letter of commission.

You will submit the original **Certificate of Authorization** to your selected authorized seal manufacturer who will make and send you your notary seals. Most notaries obtain two seals, but this is not a requirement. At the time of this printing, the cost to have a Notary Seal manufactured should be around \$15-\$25.

Chapter Summary

HOW TO BECOME A NOTARY

1. **Qualifications to become a notary are:**
 - a) Must be at least 18 years of age
 - b) Must be able to read, write and understand English
 - c) Pass a written exam with a score of 70% or greater
 - d) Be a legal resident of California
 - e) Pass a background check

- f) All notary commissions issued after July 1,2005 will require the completion of a state approved 6-hour notary course prior to commissioning. You must submit your “Proof of Completion” to the Secretary of State along with your application. Subsequent commissioning will require a 3-hour refresher course prior to commissioning and also requires the submission of a “Proof of Completion”.
2. A notary whose commission is expiring can take the exam no sooner than **six months** prior to the termination date of his or her commission.
 3. The **original application fee is \$20 and the testing fee is \$20**. You will need to pay a total of \$40 at the testing site and must be in the form of a check or money order made payable to the Secretary of State.
 4. Background checks: You will complete an application for Notary commission at that time. This application will include information which will be used by the Secretary of State to complete your background check. Failure to list arrests or convictions on your application may be cause for denial. **Even convictions which have been dismissed must be disclosed**. The Secretary of State will recommend denial for conviction of a felony and any disqualifying misdemeanors where probation for that offence has been completed less than 10 years ago.
 5. The test consists of 30 multiple-choice questions, and you can miss a maximum of 9 questions.
 6. It will take 7-10 working days for the CPS to send out a letter indicating whether a student passed or failed the exam. At around 10 working days from the date of the exam, you may be able to see your scores on line at: <https://notary.cps.ca.gov>. You may need to call the CPS at (916) 263-3520 in order to obtain a password during regular business hours. Do not call them for scores because they will not give them to you by phone due to the privacy acts.
 7. Notary testing scores are valid for 1 year. **Re-testing fees are \$20**. In the event you do not pass the initial exam, you may **not retake the exam within the same calendar month**. When taking the re-examination, be sure to bring a copy of the fail letter you received along with your identification. Contact the Secretary of State at <http://www.ss.ca.gov/business/notary/notary.htm> or 916-263-3520 for testing dates and locations in your area.
 8. Along with your pass letter from the State, you will receive an application to have fingerprints taken via **live scan**. Locations for live scans will also be listed. Complete your live scan as soon as possible because it will take

at least 6-8 weeks (possibly longer) for your background check to be completed.

9. Commissioned notaries with **less than a six-month break between commissions will not have to submit fingerprints.**
10. 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.
11. After passing your exam and your background check is approved, you will receive your letter of commission. You will have **30 days to take, subscribe and file an oath and bond** with the **Office of the County Clerk in the county in which you indicate on your application will be your principal county of business.** This may be done by certified mail or in person but you may not notarize documents until you do so as your commission is not valid without an oath and bond on file. If you cannot go directly to the County Clerk's office to take and subscribe your oath, you may use a notary within that county but you will need to ensure enough time for certified mailing to the County Clerk. You will need to take the "Oath of Office" form to the notary public, take your oath and subscribe your name on that form in front of the notary who will notarize your oath. You will be responsible for ensuring that it is sent to the County Clerk by certified mail. Your oath and bond **MUST** be on file within 30 days.
12. Your bond must be **purchased from a California admitted surety company and must be in the amount of \$15,000.** The notary is **personally and financially** liable for notarial acts completed improperly, illegally or through negligence. The bond offers protection to the **public in the event you are sued and in no way protects you.** Although it is not legally required, many notaries purchase a separate *Errors and Omissions* insurance for additional personal protection.
13. 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.** You will need to re-apply all over again and **pay \$20** for your application.
14. Along with your letter of commission from the Secretary of State, you will receive **an 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.

15. Before taking your first assignment, you will need to obtain your notary seal and take with you the **“tools of the notary trade”**.
- a) A notary journal- required for every notarial act
 - b) Acknowledgment pads- required frequently for acknowledgments
 - c) Jurat stamp- required frequently for jurat acts
 - d) Fingerprinting device- required when notarizing certain commonly notarized real estate documents which are recorded in the County records.
16. A notary’s commission lasts for 4 years after which the notary must complete the required education course, re-take the examination, file a new application and a new oath and bond should the notary desire to renew his or her commission.

Check your knowledge

1. List the six qualifications indicated in this manual to become a notary:
- 1. _____
 - 2. _____
 - 3. _____
 - 4. _____
 - 5. _____
 - 6. _____
2. A notary commission lasts for _____ years after which you must re-take the examination, file a new application and a new oath and bond upon receiving notification of passing.
3. A notary whose commission is expiring may re-take the exam no sooner than _____ months prior to the termination date of his or her commission.
4. Notaries with less than _____ months break in their commission do not have to re-submit fingerprints, however notaries with more than a 6 month break in their commission will have to re-apply all over again just as they did originally.
5. Substantial and material misstatement on your application will be grounds for the Secretary of State to _____ your application to become a notary.
6. A notary failing to remain in compliance with child support requirements will have their commission _____ or _____.
7. Newly commissioned notaries must file a surety bond in the amount of _____ take, subscribe and file their oaths of office and bond with the

County Clerk within _____ days as indicated in their letter of commission or their commissions will be void.

8. The \$15,000 bond protects the _____ should you as the notary be held liable for damages as a result of improper, illegal or negligent notary actions.
9. Important steps to becoming a notary are:
 - Submit an application at the examination site and pay the \$20 application fee, \$20 for the examination fee for first-time applicants and \$_____ for persons retaking the exam.
 - Pass the examination with a score of at least _____%
 - File your oath and bond within ____ calendar days of receiving your commission.
 - Order your notary seal; purchase a journal and a _____ device.

Answers: 1. legal resident of California; pass a background check; read, write and understand English; be at least 18 years old; pass a test with a score of 70% or greater; complete the required education course 2. four 3. six 4. six 5. deny 6. suspended or revoked 7. \$15,000 ; thirty 8. public 9. \$20; 70; 30; fingerprinting