

**FILED**

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Senate  
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**Jane Dee Hull**  
**Secretary of State**

CHAPTER 127

**SENATE BILL 1239**

AN ACT

RENUMBERING SECTIONS 41-311, 41-312, 41-313, 41-315, 41-316 AND 41-317, ARIZONA REVISED STATUTES, AS SECTIONS 41-312, 41-313, 41-314, 41-317, 41-318 AND 41-320, RESPECTIVELY; AMENDING SECTIONS 41-312, 41-313, 41-317 AND 41-318, AS RENUMBERED BY THIS ACT; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 41-311, 41-315 AND 41-316; REPEALING SECTION 41-314, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-319, 41-321, 41-322 AND 41-323; RELATING TO NOTARIES PUBLIC.

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

2 Section 1. Renumber

3 Sections 41-311, 41-312 and 41-313, Arizona Revised Statutes, are  
4 renumbered as sections 41-312, 41-313 and 41-314, respectively.

5 Sec. 2. Title 41, chapter 2, article 2, Arizona Revised Statutes, is  
6 amended by adding a new section 41-311, to read:

7 41-311. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ACKNOWLEDGMENT" MEANS A NOTARIAL ACT IN WHICH A NOTARY CERTIFIES  
10 THAT A SIGNER, WHOSE IDENTITY IS PERSONALLY KNOWN TO THE NOTARY OR IS PROVEN  
11 BY SATISFACTORY EVIDENCE, VOLUNTARILY SIGNS IN THE NOTARY'S PRESENCE A  
12 DOCUMENT FOR ITS STATED PURPOSE.

13 2. "COMMISSION" MEANS TO AUTHORIZE TO PERFORM NOTARIAL ACTS AND THE  
14 WRITTEN AUTHORITY TO PERFORM THOSE ACTS.

15 3. "COPY CERTIFICATION" MEANS A NOTARIAL ACT IN WHICH THE NOTARY  
16 CERTIFIES THAT THE NOTARY HAS MADE A PHOTOCOPY OF A DOCUMENT THAT IS NEITHER  
17 A PUBLIC RECORD NOR PUBLICLY RECORDABLE.

1           4. "JURAT" MEANS A NOTARIAL ACT IN WHICH THE NOTARY CERTIFIES THAT A  
2 SIGNER, WHOSE IDENTITY IS PERSONALLY KNOWN OR IS PROVEN BY SATISFACTORY  
3 EVIDENCE, HAS MADE IN THE NOTARY'S PRESENCE A VOLUNTARY SIGNATURE AND HAS  
4 TAKEN AN OATH OR AFFIRMATION VOUCHING FOR THE TRUTHFULNESS OF THE SIGNED  
5 DOCUMENT.

6           5. "NOTARIAL ACT" AND "NOTARIZATION" MEANS ANY ACT THAT A NOTARY IS  
7 AUTHORIZED TO PERFORM UNDER SECTION 41-313.

8           6. "NOTARIAL CERTIFICATE" AND "CERTIFICATE" MEANS THE PART OF OR  
9 ATTACHMENT TO A NOTARIZED DOCUMENT FOR COMPLETION BY THE NOTARY THAT BEARS  
10 THE NOTARY'S SIGNATURE AND SEAL.

11           7. "NOTARY PUBLIC" AND "NOTARY" MEANS ANY PERSON COMMISSIONED TO  
12 PERFORM NOTARIAL ACTS UNDER THIS ARTICLE.

13           8. "OATH" OR "AFFIRMATION" MEANS A NOTARIAL ACT OR PART OF A NOTARIAL  
14 ACT IN WHICH A NOTARY CERTIFIES THAT A PERSON MADE A VOW IN THE PRESENCE OF  
15 THE NOTARY UNDER PENALTY OF PERJURY, WITH REFERENCE MADE TO A SUPREME BEING  
16 IN THE CASE OF AN OATH.

17           9. "PERSONAL KNOWLEDGE OF IDENTITY" MEANS FAMILIARITY WITH AN  
18 INDIVIDUAL RESULTING FROM INTERACTIONS WITH THAT PERSON OVER A SUFFICIENT  
19 TIME TO ELIMINATE REASONABLE DOUBT THAT THE INDIVIDUAL HAS THE IDENTITY  
20 CLAIMED.

21           10. "SATISFACTORY EVIDENCE OF IDENTITY" MEANS THAT PROOF OF IDENTITY  
22 IS EVIDENCED BY EITHER:

23           (a) AT LEAST ONE CURRENT FORM OF IDENTIFICATION ISSUED BY A FEDERAL  
24 OR STATE GOVERNMENT WITH THE INDIVIDUAL'S PHOTOGRAPH, SIGNATURE AND PHYSICAL  
25 DESCRIPTION.

26           (b) THE OATH OR AFFIRMATION OF A CREDIBLE PERSON WHO IS PERSONALLY  
27 KNOWN TO THE NOTARY AND WHO PERSONALLY KNOWS THE INDIVIDUAL.

28           Sec. 3. Section 41-312, Arizona Revised Statutes, as renumbered by  
29 this act, is amended to read:

30           41-312. Appointment; term; oath and bond

31           A. The secretary of state may appoint notaries public in each county  
32 to hold office for four years who shall have jurisdiction in the county in  
33 which they reside and in which they are appointed. Acknowledgments of  
34 instruments may be taken and executed and oaths may be administered by a  
35 notary public in any county of the state although the commission is issued  
36 to the notary public in and for another county.

37           B. The secretary of state shall transmit the commission of the person  
38 appointed as notary public to the clerk of the superior court in the county  
39 for which the notary was appointed. The clerk shall give notice thereof to  
40 the person appointed, who shall, within twenty days after receiving such  
41 notice, take the oath prescribed by law, and give a bond to the state, with  
42 sureties approved by the clerk, in the amount of ~~one~~ FIVE thousand dollars,  
43 and file it with the clerk. Upon filing the official oath and bond the clerk

1 shall deliver the commission to such person, and give notice to the secretary  
2 of state of the time and filing of the oath and bond.

3 Sec. 4. Section 41-313, Arizona Revised Statutes, as renumbered by  
4 this act, is amended to read:

5 41-313. Duties

6 A. Notaries public shall PERFORM THE FOLLOWING NOTARIAL ACTS, when  
7 requested:

8 1. Demand acceptance and payment of foreign, domestic and inland bills  
9 of exchange or promissory notes, and protest them for nonacceptance and  
10 nonpayment, and exercise with respect thereto such other powers and duties  
11 as by the laws of other jurisdictions and according to commercial usages may  
12 be performed by notaries.

13 2. Take acknowledgments and give a certificate of ~~them~~ THE  
14 ACKNOWLEDGMENT endorsed on or attached to the instrument.

15 3. ~~Take depositions~~ PERFORM JURAT and administer oaths and  
16 affirmations.

17 4. ~~Keep a record of all their official acts, and a record of the~~  
18 ~~parties to, date and character of every instrument acknowledged or proved~~  
19 ~~before them, date of acknowledgment and description of the property affected~~  
20 ~~by the instrument, and furnish, when requested, a certified copy of any~~  
21 ~~record in their office.~~

22 5. ~~Provide and keep official seals upon which shall be engraved the~~  
23 ~~words "Notary Public," the name of the county for which they are~~  
24 ~~commissioned, and the name of the notary.~~

25 4. CERTIFY COPIES.

26 B. NOTARIES PUBLIC SHALL:

27 1. KEEP, MAINTAIN AND PROTECT AS A PUBLIC RECORD A JOURNAL OF ALL  
28 OFFICIAL ACTS PERFORMED BY THE NOTARY.

29 2. PROVIDE AND KEEP THE OFFICIAL SEAL THAT IS IMPRINTED IN DARK INK  
30 WITH THE WORDS "NOTARY PUBLIC", THE NAME OF THE COUNTY IN WHICH THE NOTARY  
31 IS COMMISSIONED, THE NAME OF THE NOTARY AS IT APPEARS ON THE NOTARIAL  
32 APPLICATION AND THE EXPIRATION DATE OF THE NOTARIAL COMMISSION.

33 ~~6~~ 3. Authenticate with ~~their official seals~~ THE OFFICIAL SEAL all  
34 official acts, and affix the date of the expiration of ~~their commissions as~~  
35 ~~such notaries~~ THE NOTARY'S COMMISSION AS THE NOTARY on every certificate or  
36 acknowledgment signed and sealed by ~~them~~ THE NOTARY.

37 Sec. 5. Repeal

38 Section 41-314, Arizona Revised Statutes, is repealed.

1           Sec. 6. Renumber

2           Sections 41-315, 41-316 and 41-317, Arizona Revised Statutes, are  
3 renumbered as sections 41-317, 41-318 and 41-320, respectively.

4           Sec. 7. Title 41, chapter 2, article 2, Arizona Revised Statutes, is  
5 amended by adding new sections 41-315 and 41-316, to read:

6           41-315. Bond

7           A. A PERSON WHO HAS BEEN COMMISSIONED AS A NOTARY SHALL FILE AN OATH  
8 OF OFFICE AND A BOND OF FIVE THOUSAND DOLLARS WITH THE CLERK OF THE SUPERIOR  
9 COURT IN THE NOTARY'S COUNTY OF RESIDENCE IN ORDER FOR THE COMMISSION TO  
10 BECOME EFFECTIVE. A LICENSED SURETY SHALL EXECUTE THE BOND. THE BOND SHALL  
11 BE EFFECTIVE FOR FOUR YEARS BEGINNING ON THE COMMISSION'S EFFECTIVE DATE.

12           B. THE CLERK OF THE SUPERIOR COURT SHALL NOT ACCEPT ANY BOND THAT WAS  
13 ISSUED MORE THAN THIRTY DAYS:

- 14           1. BEFORE THE DATE ON WHICH THE SECRETARY OF STATE COMMISSIONS A  
15 NOTARY.  
16           2. AFTER THE DATE ON WHICH THE SECRETARY OF STATE COMMISSIONS A  
17 NOTARY.

18           41-316. Fees

19           NOTARIES PUBLIC MAY RECEIVE THE FOLLOWING FEES:

- 20           1. FOR ACKNOWLEDGMENTS, NO MORE THAN TWO DOLLARS PER SIGNATURE.  
21           2. FOR OATHS AND AFFIRMATIONS WITHOUT A SIGNATURE, NO MORE THAN TWO  
22 DOLLARS.  
23           3. FOR JURAT, NO MORE THAN TWO DOLLARS PER SIGNATURE.  
24           4. FOR CERTIFIED COPIES, NO MORE THAN TWO DOLLARS PER PAGE CERTIFIED.

25           Sec. 8. Section 41-317, Arizona Revised Statutes, as renumbered by  
26 this act, is amended to read:

27           41-317. Delivering notarial journals and records; failure to  
28 comply; storing records; certified copies

29           A. ~~When the office of a notary public becomes vacant, his records and~~  
30 ~~official papers shall be deposited in~~ ON THE RESIGNATION OR REVOCATION OF A  
31 NOTARIAL COMMISSION OR THE DEATH OF A NOTARY, THE NOTARIAL JOURNAL AND  
32 RECORDS SHALL BE DELIVERED BY CERTIFIED MAIL OR OTHER MEANS PROVIDING A  
33 RECEIPT TO the office of the county recorder, ~~and~~ IN THE NOTARY'S COUNTY OF  
34 RESIDENCE. IF A NOTARY DOES NOT APPLY FOR REAPPOINTMENT, ON EXPIRATION OF  
35 THE NOTARIAL COMMISSION THE JOURNAL AND RECORDS SHALL BE DELIVERED TO THE  
36 COUNTY RECORDER AS REQUIRED FOR RESIGNATION UNDER THIS SUBSECTION. A notary  
37 who neglects for three months thereafter to deposit such records and papers,  
38 or the personal representative of a deceased notary who neglects for three  
39 months after his appointment to deposit such records and papers, shall  
40 forfeit to the state not less than fifty nor more than five hundred dollars.

41           B. The recorder shall keep all records and ~~papers~~ JOURNALS of notaries  
42 public deposited in ~~his~~ THE COUNTY RECORDER'S office and SHALL give certified  
43 copies thereof when required, and for the ~~copies~~ he COPY CERTIFICATION THE  
44 COUNTY RECORDER shall receive the same fees as are by law allowed to notaries

1 public. ~~Such copies~~ THE COPY CERTIFICATION shall be as valid and effectual  
2 as if given by a notary public.

3 Sec. 9. Section 41-318, Arizona Revised Statutes, as renumbered by  
4 this act, is amended to read:

5 41-318. Wilful destruction of records; penalty

6 Any person who knowingly destroys, defaces or conceals any JOURNAL  
7 ENTRY OR records ~~or papers~~ belonging to the office of a notary public, shall  
8 forfeit to the state an amount not exceeding five hundred dollars, and shall  
9 be liable for damages to any party injured thereby.

10 Sec. 10. Title 41, chapter 2, article 2, Arizona Revised Statutes, is  
11 amended by adding section 41-319, to read:

12 41-319. Journal

13 THE NOTARY'S JOURNAL SHALL BE PERMANENTLY BOUND, AND THE NOTARY SHALL  
14 RECORD ALL NOTARIAL ACTS IN CHRONOLOGICAL ORDER. THE NOTARY SHALL FURNISH,  
15 WHEN REQUESTED, A CERTIFIED COPY OF ANY RECORD IN THE NOTARY'S JOURNAL. EACH  
16 JOURNAL ENTRY SHALL INCLUDE AT LEAST:

- 17 1. THE DATE AND TIME OF DAY OF THE NOTARIAL ACT.
- 18 2. THE TYPE OF NOTARIAL ACT.
- 19 3. A DESCRIPTION OF THE DOCUMENT OR PROCEEDING.
- 20 4. THE PRINTED FULL NAME, SIGNATURE AND ADDRESS OF EACH PERSON FOR  
21 WHOM A NOTARIAL ACT IS PERFORMED.
- 22 5. THE EVIDENCE OF IDENTITY OF EACH PERSON FOR WHOM THE NOTARIAL ACT  
23 IS PERFORMED, IN THE FORM OF EITHER:

- 24 (a) A STATEMENT THAT THE PERSON IS PERSONALLY KNOWN TO THE NOTARY.
- 25 (b) A DESCRIPTION OF THE IDENTIFICATION DOCUMENT, ITS ISSUING AGENCY,  
26 ITS SERIAL OR IDENTIFICATION NUMBER AND ITS DATE OF ISSUANCE OR EXPIRATION.
- 27 6. THE FEE, IF ANY, CHARGED FOR THE NOTARIAL ACT.

28 Sec. 11. Title 41, chapter 2, article 2, Arizona Revised Statutes, is  
29 amended by adding sections 41-321, 41-322 and 41-323, to read:

30 41-321. Obtaining a seal; change of address; lost journal or  
31 seal; violation; classification

32 A. A VENDOR MAY NOT PROVIDE AN OFFICIAL SEAL TO A PERSON UNLESS THE  
33 PERSON PRESENTS A PHOTOCOPY OF THE PERSON'S NOTARIAL COMMISSION. THE VENDOR  
34 SHALL RETAIN THE PHOTOCOPY FOR FOUR YEARS.

35 B. WITHIN THIRTY DAYS AFTER THE CHANGE OF A NOTARY'S BUSINESS OR  
36 RESIDENTIAL ADDRESS, THE NOTARY SHALL DELIVER TO THE SECRETARY OF STATE, BY  
37 CERTIFIED MAIL OR OTHER MEANS PROVIDING A RECEIPT, A SIGNED NOTICE OF THE  
38 CHANGE THAT PROVIDES BOTH THE OLD AND NEW ADDRESSES.

39 C. WITHIN TEN DAYS AFTER THE LOSS OR THEFT OF AN OFFICIAL JOURNAL OR  
40 SEAL, THE NOTARY SHALL DELIVER TO THE SECRETARY OF STATE, BY CERTIFIED MAIL  
41 OR OTHER MEANS PROVIDING A RECEIPT, A SIGNED NOTICE OF THE LOSS OR THEFT.  
42 THE NOTARY ALSO SHALL INFORM THE APPROPRIATE LAW ENFORCEMENT AGENCY IN THE  
43 CASE OF THEFT.

1 D. A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF  
2 A CLASS 3 MISDEMEANOR.

3 41-322. Evidence of authenticity of a notarial act

4 A. THE AUTHENTICITY OF THE OFFICIAL NOTARIAL SEAL AND SIGNATURE OF A  
5 NOTARY MAY BE EVIDENCED BY EITHER:

6 1. A CERTIFICATE OF AUTHORITY FROM THE SECRETARY OF STATE,  
7 AUTHENTICATED AS NECESSARY.

8 2. AN APOSTILLE FROM THE SECRETARY OF STATE IN THE FORM PRESCRIBED BY  
9 THE HAGUE CONVENTION ABOLISHING THE REQUIREMENT OF LEGALIZATION OF FOREIGN  
10 PUBLIC DOCUMENTS OF OCTOBER 5, 1961.

11 B. AN APOSTILLE AS SPECIFIED BY THE HAGUE CONVENTION SHALL BE ATTACHED  
12 TO ANY DOCUMENT THAT REQUIRES AUTHENTICATION AND THAT IS SENT TO A NATION  
13 THAT HAS SIGNED AND RATIFIED THIS CONVENTION.

14 41-323. Apostille

15 AN APOSTILLE PRESCRIBED BY THE HAGUE CONVENTION, AS CITED IN 28 UNITED  
16 STATES CODE IN ANNOTATIONS TO RULE 44 OF THE FEDERAL RULES OF CIVIL  
17 PROCEDURE, SHALL BE IN THE FORM OF A SQUARE WITH SIDES AT LEAST NINE  
18 CENTIMETERS LONG AND SHALL CONTAIN EXACTLY THE FOLLOWING WORDING:

19 APOSTILLE

20 (CONVENTION DE LA HAYE DU 5 OCTOBRE 1961)

- 21 1. COUNTRY: \_\_\_\_\_
- 22 THIS PUBLIC DOCUMENT
- 23 2. HAS BEEN SIGNED BY \_\_\_\_\_
- 24 3. ACTING IN THE CAPACITY OF \_\_\_\_\_
- 25 4. BEARS THE SEAL/STAMP OF \_\_\_\_\_
- 26 CERTIFIED
- 27 5. AT \_\_\_\_\_ 6. THE \_\_\_\_\_
- 28 7. BY \_\_\_\_\_
- 29 8. NO. \_\_\_\_\_
- 30 9. SEAL/STAMP 10. SIGNATURE: \_\_\_\_\_
- 31 \_\_\_\_\_

32 Sec. 12. Existing notary commissions

33 The existing bond, seal and length of commission term of current  
34 notaries commissioned before the effective date of this act are not  
35 invalidated, modified or terminated by this act, but those notaries shall  
36 comply with this act in performing notarial acts and in applying for new  
37 commissions.

APPROVED BY THE GOVERNOR APRIL 9, 1996

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