Title 2 of the Arizona Administrative Code

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

This Chapter contains rules that were filed to be codified in the Arizona Administrative Code between the dates of January 1 through March 31, 2022.

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The release of this Chapter in Supp. 22-1 replaces Supp. 20-1, 1-15 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.
PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES
The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE
The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The Code is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the Code. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY
Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the Register volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the Register.

AUTHENTICATION OF PDF CODE CHAPTERS
The Office began to authenticate Chapters of the Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each Code Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the Code includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE
Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES
The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES
Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA
It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Register online at www.azsos.gov/rules, click on the Administrative Register link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE
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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.
Arizona Administrative Code

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

ARTICLE 1. REPEALED

Article 1, consisting of Sections R2-12-101 through R2-12-110, repealed effective November 4, 1998 (Supp. 98-4).

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ARTICLE 3. REGISTRATION OF TELEMARKETING SELLERS

Authority: A.R.S. § 41-275

Section R2-12-302 and the heading of Article 3 reinstated after having been inadvertently removed (Supp. 99-3).

Article 3, consisting of Sections R2-12-302 through R2-12-303, repealed effective November 4, 1998 (Supp. 98-4).

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Authority: A.R.S. § 23-1326

Article 4, consisting of Section R2-12-402, made by exempt rulemaking at 17 A.A.R. 1637, effective August 15, 2011 (Supp. 11-3).

Article 4, consisting of Section R2-12-401, repealed effective


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Authority: A.R.S. § 41-275

Article 5, consisting of Section R2-12-501 through R2-12-504, adopted by exempt rulemaking at 5 A.A.R. 742, effective February 19, 1999 (Supp. 99-1).

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Article 6, consisting of Sections R2-12-601 through R2-12-605, made by final rulemaking at 8 A.A.R. 1905, effective March 29, 2002 (Supp. 02-1).

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Article 11, consisting of Sections R2-12-1101 through R2-12-1103, adopted by emergency rulemaking pursuant to A.R.S. § 41-1026 and Laws 2000, Ch. 210, §§ 2 and 3 at 6 A.A.R. 2956, effective July 18, 2000 (Supp. 00-3).

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Article 12, consisting of Sections R2-12-1201 through R2-12-1209, made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2).

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Authority: A.R.S. § 41-275

Article 13, consisting of Sections R2-12-1301 through R2-12-1308, made by final rulemaking at 25 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1).

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ARTICLE 1. REPEALED

R2-12-101. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-102. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-103. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-104. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-105. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-106. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-107. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-108. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-109. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

R2-12-110. Repealed

Historical Note
Adopted as an emergency effective January 9, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective March 8, 1979 (Supp. 79-2). Repealed effective November 4, 1998 (Supp. 98-4).

ARTICLE 2. REPEALED

R2-12-201. Repealed

Historical Note

R2-12-202. Repealed

Historical Note

R2-12-203. Repealed

Historical Note

R2-12-204. Repealed

Historical Note
Adopted as an emergency effective March 2, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days. Amended as an emergency effective September 12, 1989, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 89-3). Adopted without change as a permanent rule effective January 9, 1990 (Supp. 90-1). Repealed effective November 4, 1998 (Supp. 98-4).

ARTICLE 3. REGISTRATION OF TELEMARKETING SELLERS

R2-12-301. Repealed

Historical Note
Adopted as an emergency effective September 12, 1989, pursuant to A.R.S. § 41-1026 valid for only 90 days (Supp. 89-3). Adopted without change as a permanent rule effective January 9, 1990 (Supp. 90-1). Repealed effective November 4, 1998 (Supp. 98-4).

Editor's Note: The following Section was inadvertently removed from the Arizona Administrative Code (Supp. 98-4). The
Section should not have been removed and is therefore reinstated, with no lapse its effective date (Supp. 99-3).

R2-12-302. Fees
A. The annual registration fee for full-year registration shall be $500.00. The annual registration fee for an initial registration statement filed between August 1 and June 30 of a registration year shall be according to a sliding scale with a minimum fee of $250.00 as follows:
   - $500 - July (full-year registration)
   - $475 - August
   - $450 - September
   - $425 - October
   - $400 - November
   - $375 - December
   - $350 - January
   - $325 - February
   - $300 - March
   - $275 - April
   - $250 - May and June
B. The fee for filing A.R.S. § 44-1272 Supplemental Statements, including Quarterly Statements of changes in solicitors, shall be $25.00 per filing.

Historical Note
Adopted as an emergency effective September 12, 1989, pursuant to A.R.S. § 41-1026 valid for only 90 days (Supp. 89-3). Adopted without change as a permanent rule effective January 9, 1990 (Supp. 90-1). Repealed effective November 4, 1998 (Supp. 98-4). Section reinstated after having been inadvertently removed (Supp. 99-3).

R2-12-303. Repealed

Historical Note
Adopted as an emergency effective September 12, 1989, pursuant to A.R.S. § 41-1026 valid for only 90 days (Supp. 89-3). Adopted without change as a permanent rule effective January 9, 1990 (Supp. 90-1). Repealed effective November 4, 1998 (Supp. 98-4).

ARTICLE 4. NO TRESPASS PUBLIC NOTICE LIST

R2-12-401. Repealed

Historical Note

R2-12-402. Recording Private Property Rights – Fees
A. The following recording fees are established under A.R.S. § 23-1326.
   2. Employer’s Private Property Rights per address and legal description of the property to which the employer has control: annual fee, per location, $4.
B. An employer who records property rights under A.R.S. § 23-1326 with the Secretary of State shall do so on a form prescribed by the Office.
C. If more than one property is listed, a supplemental form shall be used to list the additional properties.
D. The form and fees, and if applicable, supplemental form shall be accompanied by the Employer’s Private Property Rights documents and filed with the Secretary of State 8:00 a.m. to 5:00 p.m., Monday through Friday except state holidays or state furlough days.
E. Checks or money orders shall be made payable to: Secretary of State.
F. The form and fees and supporting documents may be mailed or hand-delivered.
   1. Mailing address: Secretary of State, Business Services, 1700 W. Washington St., Fl. 7, Phoenix, AZ 85007-2808.
   2. In person:
      a. Phoenix – State Capitol Executive Tower, 1700 W. Washington St., First Floor, Room 103; or

Historical Note
New Section made by exempt rulemaking at 17 A.A.R. 1637, effective August 15, 2011 (Supp. 11-3).

Editor’s Note: The following Article was adopted under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 41-132. Exemption from A.R.S. Title 41, Chapter 6 means that these rules were not published as proposed rules, the general public was not allowed a comment period, and the rules were not approved by the Attorney General.

ARTICLE 5. ELECTRONIC SIGNATURES

R2-12-501. Definitions
A. “Acceptable Certification Authorities” means authorities that meet the requirements of R2-12-504.
B. “Approved List of Certification Authorities” means the list of Certification Authorities approved by the Secretary of State to issue certificates for electronically signed transactions involving public entities in Arizona.
C. “Asymmetric crypto-system” means an electronically processed algorithm, or series of algorithms, which uses two different keys with the following characteristics:
   1. One key encrypts a given message;
   2. One key decrypts a given message; and
   3. The keys have the property that it is infeasible to discover one key from merely knowing the other key.
D. “CARAT Guidelines” means the CARAT Guidelines - Guidelines for Constructing Policies Governing the Use of Identity-Based Public Key Certificates drafted by the Certification Authority Rating and Trust (CARAT) Task Force of the National Automated Clearing House Association (NACHA), Version 1 Draft, September 21, 1998, excluding later amendments or additions, incorporated by reference and on file with the Secretary of State.
E. “Certificate” means an electronic document attached to a public key by a trusted certification authority, which provides proof that the public key belongs to a legitimate subscriber and has not been compromised.
F. “Certification Authority” means a person or entity that issues a certificate.
G. “Electrically signed communication” means an electronic message that has been processed in such a manner that the message is tied to the individual who signed the message.
H. “GITA” means the Government Information Technology Agency, as established by A.R.S. § 41-3501.
I. “Key pair” means a private key and its corresponding public key in an asymmetric crypto-system. The key pair is unique in that the public key can verify a digital signature that the private key creates.
J. “Message” means an electronic representation of information intended to serve as a written communication with a public entity.
K. “Person” means a human being or any organization capable of signing a document, either legally or as a matter of fact.

L. “Policy Authority” means, as defined by CARAT Guidelines, some authoritative party that formulates the guidelines defining the process of electronic signature use.

M. “Private key” means the key of a key pair used to create a digital signature.

N. “Public key” means the key of a key pair used to verify a digital signature.

O. “Public entity” means any budget unit, as defined in A.R.S. § 41-3501.

P. “S.A.S. 70” means the standards set in the American Institute of Certified Public Accounts (AICPA) Statement on Auditing Standards No. 70. Should current S.A.S. 70 standards (or any succeeding version) be superceded, the Secretary of State, in consultation with GITA and the State Treasurer, shall establish a deadline for all affected parties to comply with the replacing standard. This deadline shall be no later than two years from the date of issuance of the new S.A.S. standards. GITA will also provide a “roadmap” of how the revised standard fits the current Type 1 and Type 2 S.A.S. 70 designations used elsewhere in these rules.

Q. “Subscriber” means a person who:
   1. Is the subject listed in a certificate,
   2. Accepts the certificate, and
   3. Holds a private key which corresponds to a public key listed in that certificate.

Historical Note
Adopted by exempt rulemaking at 5 A.A.R. 742, effective February 19, 1999 (Supp. 99-1).

R2-12-502. Identification of Acceptable Technologies for Electronic Signatures
A. The Secretary of State shall accept, and approve for use, technologies for electronic signature, in consultation with the Policy Authority and GITA, provided the technologies meet the standards set forth in the GITA standards for Electronic Signatures, as specified in A.R.S. § 41-3504.

B. Provisions for Adding New Technologies
   1. Any individual or company can petition the Secretary of State to review the technology, by providing a written request for review including a full explanation of a proposed technology that meets the requirements established under subsection (A) and meets the requirements of the Policy Authority as identified in R2-12-503.
   2. The Secretary of State has 180 days from the date of the request to review the petition and either accept or reject it.
      a. If the petitioner’s proposed technology meets the requirements established under subsection (A) and meets the requirements of the Policy Authority, then GITA shall work with the Policy Authority to incorporate the new technology into electronic signature use by public agencies in Arizona.
      b. If the proposed technology is rejected, the petitioner can appeal the decision through the Administrative Procedure Act, A.R.S. § 41-1092.08(H).

Historical Note
Adopted by exempt rulemaking at 5 A.A.R. 742, effective February 19, 1999 (Supp. 99-1).

R2-12-503. Policy Authority
A. The office of the Secretary of State shall serve as the Policy Authority as defined within the CARAT Guidelines. These guidelines provide a prudent operational model that may be applied to new technologies as they are approved.

B. Decisions made by the Policy Authority under R2-12-501, R2-12-502, and R2-12-504 may be appealed pursuant to the Administrative Procedure Act, A.R.S. § 41-1092.08(H).

Historical Note
Adopted by exempt rulemaking at 5 A.A.R. 742, effective February 19, 1999 (Supp. 99-1).

R2-12-504. Certification Authority Approval Application, Suspension, Revocation
A. Acceptable Certification Authorities
   1. The Secretary of State shall maintain an “Approved List of Certification Authorities” authorized to issue certificates for electronically signed communication with public entities in Arizona.
   2. Public entities shall only accept certificates from Certification Authorities that appear on the “Approved List of Certification Authorities” and are authorized to issue certificates by the Secretary of State.

B. Registration of Certification Authorities
   1. The Secretary of State shall place Certification Authorities on the “Approved List of Certification Authorities” after the Certification Authority provides the Secretary of State with a copy of an unqualified performance audit performed in accordance with standards set in S.A.S. 70 to ensure that the Certification Authorities practices and policies are consistent with the requirements in this Article and any requirements of the Policy Authority.
      a. Certification Authorities that have been in operation for one year or less shall undergo a S.A.S. 70 type 1 audit - A report of Policies and Procedures placed in operation, receiving an unqualified opinion.
      b. Certification Authorities that have been in operation for longer than one year shall undergo a S.A.S. 70 type 2 audit - A Report of Policies and Procedures placed in operation and test of operating effectiveness, receiving an unqualified opinion.
      c. To remain on the “Approved List of Certification Authorities”, a Certification Authority must provide proof of compliance every two years after initially being placed on the list and meet any requirements of the Policy Authority in effect at that time.
   2. In lieu of completing the audit, Certification Authorities may be placed on the “Approved List of Certification Authorities” upon providing the Secretary of State with proof acceptable to the Secretary of State that the Certification Authority meets the Policy Authority’s criteria for acceptance of a Foreign License (non-Arizona license).
      a. Certification Authorities shall be removed from the “Approved List of Acceptable Certification Authorities” unless they provide current proof of accreditation to the Secretary of State at least once per year no later than December 31 of each year.
      b. If the Secretary of State is informed a Certification Authority has had its accreditation revoked, the Certification Authority shall be removed from the “Approved List of Certification Authorities” immediately.

Historical Note
Adopted by exempt rulemaking at 5 A.A.R. 742, effective February 19, 1999 (Supp. 99-1).

ARTICLE 6. ELECTRONIC VOTER REGISTRATION

R2-12-601. Definitions

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In addition to the definitions provided in A.R.S. §§ 16-101, 16-111, 16-140, and 16-153, unless the context provides otherwise, the following definitions apply to this Article:

1. “Destination county recorder” means the county recorder to which the registrant’s voter registration application is delivered.
2. “Electronic signature” is defined in A.R.S. § 41-132.
3. “Electronic voter registration form” means the capture and acknowledgment of statements on behalf of the registrant during the electronic voter registration process. Its contents are substantively the information prescribed by A.R.S. § 16-152.
4. “Electronic voter registration process” means the sequence of events between a registrant and a transmitter beginning with identification of the registrant up to and including submitting the registration information.
5. “Electronic voter registration, statement, or other document” means all data entered into a registration, statement, or other document that is electronically prepared and transmitted to a county recorder.
6. “Identification register” means the index of information containing registrant information maintained by a transmitter.
7. “Registrant” means a person attempting to register to vote.
8. “Transmitter” means an agency who is part of the chain of transmission of an electronic voter registration, statement, or other document from a registrant to a destination county recorder even though the agency did not receive the transmitted registration statement, or other document directly from the registrant.
9. “Wet signature” means a physically generated signature of a person that can be compared to other physically generated signatures of the person for verification of authenticity.

**Historical Note**
New Section made by final rulemaking at 8 A.A.R. 1905, effective March 29, 2002 (Supp. 02-1).

R2-12-602. Retention of Electronic Voter Registration Forms
A. For each electronic voter registration transmitted to the Secretary of State, the Secretary of State shall keep the documents listed in A.R.S. § 16-152(B) until the next General Election or the date a county recorder confirms the registration is received, whichever is later.
B. For each electronic voter registration transmitted to a county recorder, the county recorder shall keep the documents listed in A.R.S. § 16-152(A) as specified by A.R.S. § 16-162.

**Historical Note**
New Section made by final rulemaking at 8 A.A.R. 1905, effective March 29, 2002 (Supp. 02-1).

R2-12-603. Electronic Signatures for Electronic Voter Registration Forms
A. To accept the terms of the electronic voter registration process, a registrant shall electronically sign the electronic voter registration form. If a registrant uses an electronic signature, the registrant shall:
1. Declare, under penalty of perjury, that the electronic voter registration form is true, correct, and complete to the best of the registrant’s knowledge; and
2. Signify to the transmitter during the electronic voter registration process to release the electronic voter registration form to the destination county recorder.
B. An electronic signature for use on an electronic voter registration form shall be a separate acknowledgement statement authorizing the transmitter to transmit the information to the destination county recorder.
C. A registrant may use an electronic signature on an electronic voter registration form if the following conditions are true:
1. The registrant is active in the transmitter’s identification register.
2. The registrant is uniquely identified by name, physical address, and date of birth in the transmitter’s identification register.
3. A digitized image of the registrant’s wet signature exists with the transmitter for the purpose of transmitting with the electronic voter registration form to the destination county recorder.
D. If a registrant does not electronically sign the registrant’s electronic voter registration form, the registrant may complete the voter registration process on paper.

**Historical Note**
New Section made by final rulemaking at 8 A.A.R. 1905, effective March 29, 2002 (Supp. 02-1).

R2-12-604. Acceptable Transmitters of Electronic Voter Registration Forms
A. Only the following government agencies may be transmitters:
1. The Department of Transportation,
2. The county recorders, and
3. The Secretary of State.
B. Each transmitter shall enter into an agreement with the Secretary of State to transmit electronic voter registration information before transmitting electronic voter registration information.

**Historical Note**
New Section made by final rulemaking at 8 A.A.R. 1905, effective March 29, 2002 (Supp. 02-1).

R2-12-605. Transfer of Electronic Voter Registration Information
A. The Secretary of State, or its duly authorized third party, shall receive an electronic voter registration information from an accepted transmitter and deliver it to a destination county recorder.
B. A county recorder may:
1. Receive electronic voter registration information updates through the Secretary of State;
2. Receive paper renditions of the electronic voter registration information on a registration form prescribed by the Secretary of State;
3. Receive digitized images of the electronic voter registration information in a registration form prescribed by the Secretary of State.
C. Information collected to update a registrant’s voter registration information may be transmitted electronically if the following conditions are true:
1. A registrant provides information to a transmitter for updating the registrant’s name or address in the identification register pursuant to A.R.S. § 16-112(B)(4).
2. The information specified in subsection (C)(1) is received from a transmitter specified in R2-12-604(A).
3. The information specified in subsection (C)(1) is transmitted in an electronic voter registration format via an electronic manner accepted by the Secretary of State.
4. The information specified in subsection (C)(1) uniquely identifies an elector of a county recorder’s voter registration roll by name and date of birth.
D. Information collected for the intent of initial registration to the voter registration rolls may be transmitted electronically if:
1. The information meets the criteria of subsection (C);
2. The information contains a digitized image of a registrant’s wet signature; and
3. The information has been electronically signed by a registrant to authorize the transmitter to release the electronic voter registration form.

E. Voter registration information shall be kept confidential pursuant to A.R.S. § 16-153.
F. Driver’s license information shall be kept confidential pursuant to A.R.S. § 16-112.

Historical Note
New Section made by final rulemaking at 8 A.A.R. 1905, effective March 29, 2002 (Supp. 02-1).

ARTICLE 7. BALLOT MEASURE PUBLICITY PAMPHLET ARGUMENT FEES

R2-12-701. Ballot Measure Publicity Pamphlet Argument
The following fees have been established by the Office of the Secretary of State, for the purpose of offsetting the cost of printing “pro” and “con” arguments in the ballot measure publicity pamphlet as required by A.R.S. § 19-124(D):
1. Argument filed on paper only - $100.00.
2. Argument filed on paper and electronic format (computer disk) - $75.00.

Historical Note
New Section adopted by final rulemaking at 6 A.A.R. 1076, effective March 3, 2000 (Supp. 00-1).

ARTICLE 8. PROFESSIONAL EMPLOYER ORGANIZATIONS

R2-12-801. Definitions
Unless the context otherwise requires, the definitions of terms contained in A.R.S. § 23-561 are applicable in this Article. Additionally, the following definitions apply in this Article, unless otherwise specified in these rules:
1. “Application” means such forms, materials, fees, and information required to enable the Secretary of State to ascertain if an applicant meets the requirements of registration.
2. “Common Control” means having charge of those activities that are inherent in operating a PEO or PEO group.
3. “Controlling Person” means any organization or person that possesses, directly or indirectly, through financial ownership or otherwise, the power to direct, or cause the direction of, the management or policies of the PEO.
4. “PEO” means professional employer organization.
5. “Parent PEO” means an organization or person that holds common control of a parent PEO and that operate under a group registration as determined by the Secretary of State.
6. “Professional Employer Group” means two or more professional employer organizations that are under common control of a parent PEO and that operate under a group registration issued under A.R.S. § 23-566.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-803. Limited Registration
An applicant for limited registration must provide with its application:
1. A copy of the statutory and regulatory PEO requirements of another state in which the PEO applicant is registered and which govern that PEO’s out-of-state registration. The governing statutory and regulatory requirements from the other state must be substantially similar to the PEO requirements of Arizona as determined by the Arizona Secretary of State.
2. A certificate or documentation issued by that state’s licensing agency showing that the applicant’s registration is current and valid and discloses whether the applicant has been subject to any disciplinary actions in that state.
3. A statement signed by a controlling person of the PEO declaring that the PEO meets the requirements of limited registration as provided in A.R.S. § 23-567(A)(1) through (4).

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-804. Late Registration
If renewal registration is not received by the Secretary of State within 120 days after the applicant’s completed fiscal year, the applicant shall pay the established registration renewal fee.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-805. Registration Fees
CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

A. A PEO registering with the Secretary of State shall pay the following fees:
   1. If applying for initial registration:
      a. The initial registration fee shall be $1,000; and
      b. The renewal registration fee shall be $1,000.
   2. If applying for group registration:
      a. The initial group registration fee shall be $1,000 for the parent employer organization and $500 for each member of the group; and
      b. The group registration renewal fee shall be $1,000 for the parent organization and $500 for each member of the group.
   3. If applying for limited registration:
      a. The initial limited registration fee shall be $1,000; and
      b. The limited registration renewal fee shall be $1,000.
B. All fees are nonrefundable.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-806. Complaints
A. Any person may file a complaint with the Office of the Secretary of State regarding a PEO. The Secretary of State shall receive any complaints and shall investigate and determine whether action is necessary involving allegations of any misconduct as provided in A.R.S. § 23-575 and these rules.
   1. A complaint must be in writing;
   2. The complainant shall be clearly identified. If an entity files a complaint an individual shall be identified in the complaint that will serve as a contact person while the investigation of the complaint is conducted;
   3. The name of the PEO who has allegedly committed the misconduct must be clearly identified;
   4. The nature of the misconduct and the circumstances surrounding the alleged misconduct shall be clearly identified; and
   5. Documentation, if any, supporting the allegations shall accompany the complaint.
B. Upon receipt of the complaint the Secretary of State shall mail a copy of the complaint to the PEO in question and request a written response.
C. If a PEO fails to respond within 30 days to a request for information during an investigation the Secretary of State may take action pursuant to A.R.S. § 23-575(E).

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-807. Investigations
A. The Secretary of State or its representative may request information, perform an investigation, audit, or review documents necessary to determine whether a PEO has violated any provision of A.R.S. §§ 23-563 through 23-569 or 23-575 or these rules.
B. Information gathered pursuant to an investigation is confidential and not open to public inspection pursuant to A.R.S. § 23-563(C).
C. The disciplinary record of a PEO is a matter of public record as allowed by law.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-808. Administrative Hearings

If the Secretary of State denies an application for registration, or restricts, revokes or refuses to renew a registration, or if the Secretary of State places a registrant on probation, upon notification, the registrant may appeal the decision of the Secretary of State pursuant to the procedure provided in A.R.S. Title 41, Chapter 6, Article 10.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-809. Restriction, Revocation or Probation of Registration
A. If a PEO fails to comply with any of the requirements of registration the Secretary of State may restrict, revoke or place the PEO on probation until such time as the PEO comes into compliance with the registration requirements.
B. If the PEO fails to cure any deficiency within 150 days of the registration renewal date, the Secretary of State may revoke the registration of an applicant.
C. If a PEO fails to comply with any of the duties and responsibilities identified in R2-12-811 the Secretary of State may take action pursuant to A.R.S. § 23-575(E) and (F) until such time as the PEO comes into compliance.
D. Upon restriction of a registration, the holder of the restricted registration shall:
   1. Immediately cease soliciting clients for PEO services.
   2. Notify each client of the PEO's restriction within five days after the effective date of the restriction.
E. Upon revocation of a registration, the holder of the revoked registration shall:
   1. Cease all PEO operations immediately.
   2. Notify each client of the PEO of the PEO's revocation within two days after the effective date of revocation.
F. Upon the completion of a period of registration restriction or the reinstatement of a registration that was revoked the PEO shall be placed on probation for one year.

Historical Note
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

R2-12-810. Requirements for Reinstatement of a Restricted, Revoked or Probationary Registration After the Specified Term of Discipline
A. Unless otherwise specified in a disciplinary order imposing revocation, the disciplined registrant may, after two years from the date of the disciplinary order, petition for the reinstatement of its registration.
B. Unless otherwise specified in a disciplinary order a PEO whose registration has been restricted or put on probation the disciplined registrant shall, at the end of the restriction, or probation, petition for the release from the conditions of restriction or probation.
C. Unless otherwise provided by a disciplinary order, an applicant who applies for reinstatement of a registration after the specified term of restriction or revocation of the registration shall:
   1. Submit an application for registration complete with all supporting documents as is required when making an initial application for registration demonstrating the applicant meets all current qualifications for registration and compliance with requirements and conditions of registration reinstatement;
   2. Submit a Petition for Release from the imposed disciplinary order that documents that all conditions of reinstatement and requirements for re-registration have been fulfilled;
   3. Pay the established registration renewal fee;
4. Provide documentation to the Secretary of State to clearly demonstrate the applicant is statutorily qualified to be reinstated to engage in offering PEO services; and
5. Pay all monies due.

**Historical Note**
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

**R2-12-811. Duties and Responsibilities**

A. An applicant or registered PEO shall notify the Secretary of State in writing within 30 days of any conviction, judgment, guilty plea or no contest plea of the applicant or any of the applicant’s controlling persons for any violation listed in A.R.S. § 23-575.

B. An applicant or registered PEO shall notify the Secretary of State in writing within 30 days of any final action by a state or federal regulatory agency for violations related to the operation of a PEO.

C. An applicant or registered PEO shall notify the Secretary of State in writing within 30 days of any determination by any court of competent jurisdiction, including federal courts, located in any state, that the applicant or any of the applicant’s controlling persons were found, or plead guilty to fraud related to the operation of a PEO.

D. An applicant or registered PEO shall respond to any requests for information and comply with any investigations that are initiated by the Secretary of State.

E. An applicant or registered PEO shall notify the Secretary of State in writing within 10 days of the PEO’s failure to stay current with obligations that relate to payroll, payroll-related taxes, workers’ compensation insurance premiums for covered employees and employee benefits.

**Historical Note**
New Section made by final rulemaking at 13 A.A.R. 4501, effective January 29, 2008 (Supp. 07-4).

**ARTICLE 9. RESERVED**

**ARTICLE 10. CAMPAIGN CONTRIBUTIONS AND EXPENSES; STANDING POLITICAL COMMITTEES SECTION**

**R2-12-1001. Filing Fees**

A. A fee of $250.00 shall accompany the filing of a Statement of Organization that declares the status of a Standing Political Committee. Regardless of the date of filing of a Statement of Organization, the annual registration of all Standing Political Committees shall expire midnight on December 31.

B. A fee of $250.00 shall be submitted to the Secretary of State for the annual renewal of a Standing Political Committee’s status. Annual renewal fees are due and payable on or before January 1.

C. All fees shall be made payable to the Office of the Secretary of State. Fees paid to the Secretary of State for Standing Political Committee status are non-returnable and non-transferable.

**Historical Note**
New Section adopted by final rulemaking at 6 A.A.R. 3567, effective August 23, 2000 (Supp. 00-3).

**Exhibit 1. Notary Public Services**

<table>
<thead>
<tr>
<th>NOTARY PUBLIC SERVICES (Business, Office, or Notary Name)</th>
<th>Fees Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>acknowledgment or jurat</td>
<td>[Example Fee] No Charge per notary public signature</td>
</tr>
<tr>
<td>copy certification</td>
<td>[Example Fee] No Charge per page certified</td>
</tr>
</tbody>
</table>

**Historical Note**
New Section adopted by emergency rulemaking at 6 A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7 A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7 A.A.R. 2141, effective May 1, 2001 (Supp. 01-2).

**R2-12-1101. Definitions**

The following definitions shall apply in this Article unless the context otherwise requires:

“Acknowledgment” means the same as defined in A.R.S. § 41-311(1).

“Bond” means a surety bond to the state, with sureties approved by the clerk of the superior court in the county in which the individual is being commissioned as a notary public.

“Copy certification” means the same as defined in A.R.S. § 41-311(3).

“Credible person” means a person used to identify a signer when the signer does not have other satisfactory evidence of identity as specified in A.R.S. § 41-311(11).

“Jurat” means the same as defined in A.R.S. § 41-311(6).

“Oath” or “affirmation” means the same as defined in A.R.S. § 41-311(10).

“Satisfactory evidence of identity” means the same as defined in A.R.S. § 41-311(11).

**Historical Note**
New Section adopted by emergency rulemaking at 6 A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7 A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7 A.A.R. 2141, effective May 1, 2001 (Supp. 01-2).

**R2-12-1102. Notary Public Fees**

A. Pursuant to A.R.S. § 38-412, a notary public shall keep posted at all times in a conspicuous location, the fee schedule listed under subsection (E)(1) through (3).

B. Upon reviewing the fees schedule under subsection (E)(1) through (3), a notary shall select a standard fee, from “no charge” up to the maximum $10 fee for a notarial act. A notary public shall be consistent when charging fees and post the fee schedule in a conspicuous location.

C. When posting fees under subsection (A) and (B), notaries shall use the template in Exhibit 1, Notary Public Services.

D. Before performing any notarial act, the notary public shall inform the requestor of the service fee if one will be charged.

E. A Notary public may charge the following fee:

1. For an acknowledgment or jurat, “no charge” up to $10 per notary public signature;
2. For a copy certification, “no charge” up to $10 per page certified;
3. For an oath or affirmation, “no charge” up to $10 per notarial act.

**Historical Note**
New Section adopted by emergency rulemaking at 6 A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7 A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7 A.A.R. 2141, effective May 1, 2001 (Supp. 01-2). Section amended by final rulemaking at 24 A.A.R. 137, effective March 5, 2018 (Supp. 18-1).
CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

R2-12-1103. Notary Public Bonds
A. Notaries public shall purchase a bond in the amount of $5,000 before being commissioned as a notary public. The original bond shall be filed with the clerk of the superior court in the applicant’s county of residence. A copy of the bond shall be filed with the applicant’s application form submitted to the Secretary of State’s Office.

B. The bond shall contain, on its face, the oath of office for the notary public as specified in A.R.S. § 38-233(B). This oath shall be as specified in A.R.S. § 38-231. The notary shall endorse the oath on the face of the bond, immediately below the oath, by signing the notary’s name under which the person has applied to be commissioned as a notary and exactly as the name appears on the notary application form filed with the Secretary of State’s Office.

Historical Note
New Section adopted by emergency rulemaking at 6 A.A.R. 2956, effective July 18, 2000 (Supp. 00-3). Emergency rulemaking renewed at 7 A.A.R. 672, effective January 13, 2001 (Supp. 01-1). Section made by final rulemaking at 7 A.A.R. 2141, effective May 1, 2001 (Supp. 01-2).

ARTICLE 12. ELECTRONIC NOTARY

Article 12, consisting of Sections R2-12-1201 through R2-12-1209, made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2).

R2-12-1201. Definitions

The following definitions shall apply to this Article unless context otherwise requires:

1. “Apostille” means a certificate that authenticates the seals and signatures of officials on public documents issued by public authorities for use in foreign countries that are members of the 1961 Hague Convention Treaty.

2. “Certificate Authority” means an entity that issues digital certificates in compliance with the requirements of R2-12-1204.

3. “Commission” means the same as defined in A.R.S. § 41-251(3).

4. “Electronic” means the same as defined in A.R.S. § 41-251(4).

5. “Electronic notarizations” or “electronic notarial acts” means a notarial act performed with respect to an electronic record and that contains the words “notary public”, the name of the county in which the notary public’s name appears on the notarial commission, the commission number and the expiration date of the notarial commission.

6. “Electronic signature” means the same as defined A.R.S. § 41-251(5).

7. “Electronic record” means information attached to or logically associated with an electronic means.

8. “Electronic seal” means an electronic image that contains information attached to or logically associated with an electronic record and that contains the words “notary public”, the name of the county in which the notary public is commissioned, the notary public’s name as it appears on the notarial commission, the commission number and the expiration date of the notarial commission.

9. “Electronic signature” means the same as defined A.R.S. § 41-251(6).

10. “Non-repudiation” means the signer of an electronic document cannot deny their electronic signature without factual basis.

11. “Notarial act” means the same as defined in A.R.S. § 41-251(7).

12. “Notary public” or “notary” means the same as defined in A.R.S. § 41-251(8).

13. “Person” means the same as defined in A.R.S. § 41-251(9).

14. “Qualified Certificate Authority” means a trusted entity that issues digital certificates in compliance with the requirements of R2-12-1204.

15. “Tamper-evident technology” means a set of applications, programs, hardware, software, or other technologies designed to enable a notary public to perform notarial acts with respect to electronic records and to display evidence of any changes made to an electronic record.

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1201 renumbered to R2-12-1203; new Section R2-12-1202 made by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4). Amended by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).

R2-12-1202. Authority to Perform Electronic Notarization

A notary public of this state may perform electronic notarizations during the term of the notary public’s commission if:

1. The notary public has received written authorization from the Secretary of State to perform either:
   a. Electronic notarizations under this Article; or
   b. Remote online notarizations; and

2. The Secretary of State has not terminated or revoked such authorization.

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1201 renumbered to R2-12-1203; new Section R2-12-1202 made by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4).

R2-12-1203. Registration

A. To receive authorization from the Secretary of State to perform electronic notarizations a notary public must submit an application in a format prescribed by the Secretary of State that provides the following information about the applicant:

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oath or affirmation</td>
<td>[Example Fee] No Charge per notarial act</td>
<td></td>
</tr>
</tbody>
</table>

Attention Customer: Fees charged by an Arizona Notary Public may vary from “no charge” up to $10.

An Arizona Notary Public May Charge the Following Fees:

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgment or jurat</td>
<td>up to $10 per notary public signature</td>
<td></td>
</tr>
<tr>
<td>Copy certification</td>
<td>up to $10 per page certified</td>
<td></td>
</tr>
<tr>
<td>Oath or affirmation</td>
<td>up to $10 per notarial act</td>
<td></td>
</tr>
</tbody>
</table>
Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using hardware and/or software updates to the technologies that the notary public identified under subsection (A) if the hardware and/or software update does not result in technologies that are materially different from the technologies that the notary public identified previously.

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1205 renumbered to R2-12-1204; new Section R2-12-1205 renumbered from Section R2-12-1204 renumbered from Section R2-12-1203 renumbered by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4). Amended by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).
Seals
A. A notary public’s electronic signature and electronic seal shall remain within the exclusive control of the notary public, including control by means of use of a password or other secure method of authentication. A notary public shall not disclose any access information used to affix the notary public’s electronic signature or electronic seal to electronic records, except:
1. When requested by the Secretary of State or a law enforcement officer;
2. When required by court order or subpoena; or
3. Pursuant to an agreement to facilitate electronic notarizations with a vendor or other technology provider identified in an application submitted under this Article.

B. A notary public may not allow any other individual to use his or her electronic signature or electronic seal to perform a notarial act.

C. Upon resignation, revocation, or expiration of the notary public’s commission, the notary public’s electronic seal (including any coding, disk, digital certificate, card, software, or password that enables the notary public to attach or logically associate the electronic seal to an electronic record) shall be destroyed or disabled to prohibit its use by any other person.

D. A notary public shall immediately notify an appropriate law enforcement agency and the Secretary of State on actual knowledge of the theft or vandalism of the notary public’s electronic signature, electronic seal, or digital certificate. A notary public shall immediately notify the Secretary of State on actual knowledge of the unauthorized use by another person of the notary public’s electronic signature, electronic seal, or digital certificate.

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1206 renumbered to R2-12-1207; new Section R2-12-1206 renumbered from Section R2-12-1205 and amended by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4).

R2-12-1207. Journal
An electronic notary public shall keep a journal of all electronic notarial acts in bound paper form with the same form as required in A.R.S. § 41-319 and shall be under the sole control of the electronic notary public.

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1207 renumbered to R2-12-1208; new Section R2-12-1207 renumbered from Section R2-12-1206 and amended by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4).

R2-12-1208. Requirements for Authenticating the Notarial Act
Electronic notarial acts need to fulfill certain basic requirements to ensure non-repudiation and the capability of being authenticated by the Secretary of State for purposes of issuing Apostilles and Certificates of Authentication. They are as follows:
1. The fact of the notarial act, including the notary’s identity, signature, and commission status, must be verifiable by the Secretary of State, and
2. The notarized electronic document will be rendered ineligible for authentication by the Secretary of State if it is improperly modified after the time of notarization, including any unauthorized alterations to the document content, the electronic notarial certificate, the notary public’s electronic signature, and/or the notary public’s official electronic seal.

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1208 repealed; new Section R2-12-1208 renumbered from Section R2-12-1207 and amended by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4).

R2-12-1209. Repeated

Historical Note
New Section made by final rulemaking at 9 A.A.R. 2085, effective August 1, 2003 (Supp. 03-2). Section R2-12-1209 repealed by final rulemaking at 26 A.A.R. 106, with an immediate effective date of December 30, 2019 (Supp. 19-4).

ARTICLE 13. REMOTE ONLINE NOTARIZATION

R2-12-1301. Definitions
The following definitions shall apply to this Article unless context otherwise requires:
1. “Commission” means the same as defined in A.R.S. § 41-251(2).
2. “Communication technology” means the same as defined in A.R.S. § 423(1).
3. “Credential analysis” means a process or service that meets the standards established under R2-12-1305 through which a third person affirms the validity of an identification credential through review of public or private data sources.
4. “Dynamic knowledge-based authentication assessment” means an identity assessment of an individual that is based on a set of questions formulated from public or private data sources for which the individual has not provided a prior answer.
5. “Electronic” means the same as defined in A.R.S. § 41-251(3).
6. “Electronic notarization” or “electronic notarial acts” means a notarial act performed with respect to an electronic record in accordance with Article 12.
7. “Electronic record” means information that is created, generated, sent, communicated, received or stored by electronic means.
8. “Electronic seal” means an electronic image that contains information attached to or logically associated with an electronic record and that contains the words “notary public”, the name of the county in which the notary public is commissioned, the notary public’s name as it appears on the notarial commission, the commission number and the expiration date of the notarial commission.
9. “Identification credential” means an identification card or document that constitutes “satisfactory evidence of identity” as defined in A.R.S. § 41-255.
10. “Identity proofing” means a process or service that meets the standards established under R2-12-1305 through which a third person affirms the identity of a remotely located individual by a review of personal information from public or private data sources.
11. “Multi-factor authentication” means a security system that requires more than one method of authentication from independent categories of credentials to verify the user’s identity for a login or other transaction.
12. “Notarial act” means the same as defined in A.R.S. § 41-251(6).
13. “Person” means the same as defined in A.R.S. § 41-251(10).
15. “Remotely located individual” means the same as defined in A.R.S. § 41-263(I)(5).
16. “Remote online notarization” or “remote online notarial act” means a notarial act performed by means of communication technology.
17. “Remote presentation” means transmission to a notary public through communication technology of an image of a remotely located individual’s identification credential that is of sufficient quality to enable the notary public to reasonably identify the remotely located individual and to perform credential analysis.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).

R2-12-1302. Authority to Perform Remote Online Notarization
A. A notary public of this state may perform remote online notarizations during the term of the notary public’s commission if:
   1. The notary public has received written authorization from the Secretary of State to perform remote online notarizations under this Article; and
   2. The Secretary of State has not terminated or revoked such authorization.
B. A notary public who is authorized to perform remote online notarizations under subsection (A) may also perform electronic notarizations under Article 12.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1).

R2-12-1303. Use of Electronic Notarization
In performing a remote online notarization, a notary public must comply with the requirements for electronic notarization as provided in Article 12.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1).

R2-12-1304. Registration
A. To receive authorization from the Secretary of State to perform remote online notarizations a notary public must submit an application in a format prescribed by the Secretary of State that provides the following information about the applicant:
   1. The applicant’s full legal name and the name under which the applicant is commissioned as a notary public (if different);
   2. The applicant’s email address;
   3. A description of the technologies or devices that the applicant intends to use to perform remote online notarizations;
   4. The name, address, and website URL of any vendors or other persons that will directly supply to the applicant the technologies that the applicant intends to use;
   5. A statement certifying that the technologies described in the application comply with the requirements of this Article; and
   6. A disclosure of any professional license or commission revocations or other professional disciplinary actions taken under the laws of any state against the applicant.

B. The application must be submitted to the Secretary of State as provided by information posted on the Secretary of State’s website at https://azsos.gov/.

C. If, during the term of a notary public’s commission, the notary public intends to use the technologies of another vendor or person than those identified under subsection (A)(3) and (4), then an additional application or amendment identifying such other vendors or other persons must be submitted to the Secretary of State as provided in this Section.

D. If the technology identified in the application under subsection (A) conforms to the standards adopted under this Article and the applicant satisfies the requirements of this Section, the Secretary of State shall approve the use of the technology and issue to the notary public written authorization to perform electronic notarizations.

E. The Secretary of State may reject the application, or terminate or revoke a prior authorization given under this Section, for the following reasons:
   1. The applicant’s failure to comply with A.R.S. §§ 41-251 through 41-333 or this Article;
   2. Any information required under subsection (A) is missing, inaccurate, or incomplete; or
   3. The technology identified in the application does not conform to the standards adopted under this Article.

F. The Secretary of State shall notify the notary public of approval or rejection of the application within 45 days after receipt. If the application is rejected, the Secretary of State shall state the reasons for the rejection.

G. Rejection of an application, or termination or revocation of a prior authorization to perform electronic notarizations may be appealed pursuant to A.R.S. §§ 41-1092.02 and 41-1092.06.

H. The term of the commission to perform remote online notarization shall be the same as the term of the notary’s existing notary commission.

I. The renewal of the commission of a notary public who has previously received authorization to perform remote online notarizations does not constitute renewal of such authorization. Applicant shall submit another application as provided under subsection (A) and must receive authorization from the Secretary of State in order to continue to perform remote online notarizations.

J. Nothing herein shall be construed to prohibit a notary public from receiving, installing, or using hardware and/or software updates to the technologies that the notary public identified under subsection (A) if the hardware and/or software update does not result in technologies that are materially different from the technologies that the notary public identified previously.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).

R2-12-1305. Standards for Identity Verification
A. If a notary public does not have satisfactory evidence of the identity of a remotely located individual under subsection (D), the notary public must reasonably verify the individual’s identity through a multi-factor authentication procedure as provided in this Section and in subsections (B) and (C). The procedure must analyze the individual’s identification credential that is the subject of remote presentation against trusted
third-person data sources, bind the individual’s identity to the individual following successful dynamic knowledge-based authentication assessment, and permit the notary public to visually compare the identification credential and the individual. Credential analysis and identity proofing must be performed by a reputable third party who has provided evidence to the notary public of the ability to satisfy the requirements of this Article.

B. Credential analysis must use public or private data sources to confirm the validity of the identification credential that is the subject of remote presentation by a remotely located individual and shall, at a minimum:

1. Use automated software processes to aid the notary public in verifying the identity of each remotely located individual;
2. Require the identification credential to pass an authenticity test, consistent with sound commercial practices, that uses appropriate technologies to confirm the integrity of visual, physical, or cryptographic security features and to confirm that the identification credential is not fraudulent or inappropriately modified;
3. Use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identification credential details; and
4. Enable the notary public to visually compare for consistency the information and photograph on the identification credential and the remotely located individual as viewed by the notary public in real time through communication technology.

C. Identity proofing must be performed by means of a dynamic knowledge-based authentication assessment. The assessment is successful if it meets the following requirements:

1. The remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual’s personal history or identity formulated from public or private data sources;
2. Each question must have a minimum of five possible answer choices;
3. At least 80% of the questions must be answered correctly;
4. All questions must be answered within two minutes;
5. If the remotely located individual fails the first attempt, the individual may retake the quiz one time within 24 hours;
6. During a retake of the quiz, a minimum of 40% of the prior questions must be replaced;
7. If the remotely located individual fails the second attempt, the individual is not allowed to retry with the same online notary public within 24 hours of the second failed attempt; and
8. The notary public must not be able to see or record the questions or answers.

D. A notary public has satisfactory evidence of the identity of a remotely located individual if:

1. The notary public has personal knowledge of the identity of the individual; or
2. The individual is identified by oath or affirmation of a credible witness in accordance with the following requirements:
   a. To be a credible witness, the witness must have personal knowledge of the remotely located individual.
   b. The notary public must have personal knowledge of the credible witness or verify the identity of the credible witness by multi-factor authentication in accordance with subsections (A), (B) and (C).

c. A credible witness may be outside the physical presence of the notary public or remotely located individual if the notary public, credible witness, and remotely located individual can communicate by using communication technology.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1).

R2-12-1306. Standards for Communication Technology
A. Communication technology must provide for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the notary public and remotely located individual to see and speak with each other. The process must provide a means for the notary public reasonably to confirm that an electronic record before the notary public is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature.

B. Communication technology must provide reasonable security measures to prevent unauthorized access to:

1. The live transmission of the audio-visual feeds;
2. The methods used to perform identity verification; and
3. The electronic record that is the subject of the remote online notarization.

C. If a remotely located individual must exit the workflow prior to completion of the identity verification process, the individual must restart the identity verification process from the beginning.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1).

R2-12-1307. Certificate of Notarial Act for Remote Online Notarization
A. A form of notarial certificate for a remote online notarization satisfies the requirement of A.R.S. § 41-263(D) if it is in the form provided by applicable law and contains a statement substantially as follows: “This remote online notarization involved the use of communication technology.”

B. A short form of acknowledgment prescribed in A.R.S. § 41-265 or other form of notarial certificate required by law satisfies the requirement of A.R.S. § 41-263(D) if it is in substantially one of the following forms for the purposes indicated:

1. For an acknowledgment in an individual capacity:
   The foregoing instrument was acknowledged before me by means of communication technology on (date) by (name(s) of individual(s)).
   (Signature of notary public)
   Notary Public
   (Electronic seal)
   (My commission expires: ______________)

2. For an acknowledgment in a representative capacity:
   The foregoing instrument was acknowledged before me by means of communication technology on (date) by (name(s) of individual(s)) as (type of authority, such as officer or trustee) of (name of party on behalf of whom the instrument was executed).
   (Signature of notary public)
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Notary Public
(Electronic seal)
(My commission expires: ________________)

3. For a verification on oath or affirmation:
State of Arizona
County of _____________________
Signed and sworn to (or affirmed) before me by means of communication technology on (date) by (name(s) of individual(s) making statement).
(Signature of notary public)
Notary Public
(Electronic seal)
(My commission expires: ________________)

4. Certificate of acknowledgement for a corporation:
State of Arizona
County of _____________________
The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation.
(Signature of notary public)
Notary Public
(Electronic seal)
(My commission expires: ________________)

5. Certificate of acknowledgement for a partnership:
State of Arizona
County of _____________________
The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.
(Signature of notary public)
Notary Public
(Electronic seal)
(My commission expires: ________________)

6. Certificate of acknowledgement for an individual acting as principal by an attorney in fact:
State of Arizona
County of _____________________
The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).
(Signature of notary public)
Notary Public
(Electronic seal)
(My commission expires: ________________)

7. Certificate of acknowledgement by any public officer, trustee, or personal representative:
State of Arizona
County of _____________________
The foregoing instrument was acknowledged before me by means of communication technology this (date) by (name and title of position).
(Signature of notary public)
Notary Public
(Electronic seal)
(My commission expires: ________________)

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).

R2-12-1308. Record Retention and Depositories
A. A notary public must retain the electronic journal required and any audio-visual recording of the performance of each remote online notarial act in a computer or other electronic storage device that protects the journal and recording against unauthorized access by password or cryptographic process. The recording must be created in an industry-standard, audio-visual file format and must not include images of any electronic record that was the subject of the remote online notarization.

B. An electronic journal must be retained for at least five years after the last remote online notarial act chronicled in the journal. An audio-visual recording must be retained for at least five years after the recording is made.

C. A notary public must take reasonable steps to ensure that a backup of the electronic journal and audio-visual recording exists and is secure from unauthorized use.

D. On the death or adjudication of incompetency of a current or former notary public, the notary public’s personal representative or guardian or any other person knowingly in possession of an electronic journal or audio-visual recording must:
   1. Comply with the retention requirements of this Section;
   2. Transmit the journal and recording to one or more depositories under subsection (E); or
   3. Transmit the journal and recording in an industry-standard readable data storage device to the Secretary of State at: Secretary of State, Attn: Notary Department, 1700 W. Washington Street, Floor 7, Phoenix, AZ 85007-2808.

E. A notary public, guardian, conservator, or agent of a notary public, or a personal representative of a deceased notary public may, by written contract, engage a third person to act as a depository to provide the storage required by this Section. A third person under contract under this Section shall be deemed a depository. The contract must:
   1. Enable the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public to comply with the retention requirements of this Section even if the contract is terminated; or
   2. Provide that the information will be transferred to the notary public, guardian, conservator, or agent of the notary public, or the personal representative of the deceased notary public if the contract is terminated.

Historical Note
New Section made by final rulemaking at 26 A.A.R. 537, with an immediate effective date of March 19, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).

R2-12-1309. Electronic Record of Remote Online Notarizations
A. A notary public shall record each remote online notarial act performed by the notary public in chronological order in one or more journals maintained in a permanent, tamper-evident electronic format that complies with this Article. A notary public may not record a remote online notarial act in a paper
journal required by A.R.S. § 41-319. Each journal entry shall include:
1. The date and time of the notarial act;
2. A description of the record, if any, and type of notarial act;
3. The full name and address of each individual for whom the remote online notarial act is performed;
4. If the identity of the individual is based on personal knowledge, a statement to that effect;
5. If the identity of the individual is based on credential analysis and identity proofing, a brief description of the results of the identity verification process and the identification credential presented, including the date of issuance and expiration of the identification credential but not its serial or identification number;
6. If the identity of the individual is based on an oath or affirmation of a credible witness, the information required by subsections (A)(3), (4) and (5) with respect to the credible witness;
7. A fee, if any, charged by the notary public.

B. An electronic journal kept by the notary public and the audio and visual recording are subject to A.R.S. § 41-319 relating to public records.

Historical Note
New Section made by final rulemaking at 28 A.A.R. 719 (April 8, 2022), effective March 24, 2022 (Supp. 22-1).