

Arizona Secretary of State
Public Services Division
Certified Original Rules

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Title Number: 02

Code Chapter: 12

Title: Administration

Chapter: Office of the Secretary of State

Date/Year filed with the office:

2017	7	14
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Year

Month

Day

Rule Number: R17-136

Archive Notes:

Effective Date:

Effective Date:

R17-136

AGENCY RECEIPT
NOTICE OF PROPOSED RULEMAKING

SECRETARY OF STATE

2017 JUL 14 PM 2:54

FILED

1. **Agency name:** Office of the Secretary of State

2. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

<u>Subchapters, Articles, Parts, and Sections</u>	<u>Rulemaking Action</u>
R2-12-1102	Amend
Exhibit 1.	New Exhibit

R17-136

SECRETARY OF STATE

**AGENCY CERTIFICATE
NOTICE OF PROPOSED RULEMAKING**

2017 JUL 14 PM 2:54

FILED

- 1. **Agency name:** Office of the Secretary of State
- 2. **Chapter heading:** Office of the Secretary of State
- 3. **Code citation for the Chapter:** 2 A.A.C. 12
- 4. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

Subchapters, Articles, Parts, and Sections

Action:

R2-12-1102

Amend

Exhibit 1

New Exhibit

- 5. **The rules contained in this package are true and correct as proposed.**

6. Patricia A. Viverto

7/14/2017

Signature

Date of signing

Patricia A. Viverto

Director, Business Services

Printed or typed name of signer

Title of signer

R17-136

NOTICE OF PROPOSED RULEMAKING

SECRETARY OF STATE

TITLE 2. ADMINISTRATION

2017 JUL 14 PM 2:54

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

FILED

PREAMBLE

1. Article, Part, or Section Affected (as applicable): Rulemaking Action
 R2-12-1102 Amend
 Exhibit 1 New Exhibit

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
 Authorizing statute: A.R.S. § 41-316(A)
 Implementing statute: A.R.S. § 41-316(A)

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
 Notice of Rulemaking Docket Opening: 23 A.A.R. XXXX, Date (*in this issue*)

4. The agency's contact person who can answer questions about the rulemaking:
 Name: Patricia A. Viverto, Director
 Address: Secretary of State, Business Services
 1700 W. Washington St., 7th Floor
 Phoenix, AZ 85007
 Telephone: (602) 542-6187
 Fax: (602) 542-4366
 E-mail: pviverto@azsos.gov

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

About Arizona Notaries

A notary is a public officer commissioned by the Office of the Secretary of State (Office) to perform notarial acts as defined in Arizona Revised Statutes (A.R.S). Notaries serve as independent, unbiased, neutral officers who take required steps in authenticating signatures and completing notarial transactions. Government offices, businesses and the public rely on the accuracy and integrity of notaries public to perform the required steps to authenticate signatures and ensure that all notarizations are completed properly. Notaries play an important role in preventing fraud and forgery while bolstering the authenticity of a document.

History of Arizona Fees

Until 1996, Arizona notaries were allowed to charge up to 75¢, at which time the notary fee was increased under Arizona law to \$2. The notary public could charge a person "zero" for the notarization service up to the \$2 fee allowed under the law.

Laws 2000, Ch. 210, § 3 removed the fees schedule for notarizations out of A.R.S. § 41-316 and required the Office

to prescribe fees in rule. At that time, the Office adopted emergency rules and renewed the emergency before adopting a permanent fee schedule in 2001 under Section R2-12-1102.

The Office did not raise fees when adopting this rule, rather it kept the fees as originally established in 1996; up to \$2 per signature notarized, oath administered or page certified. Therefore, fees a notary MAY charge have not increased in 21 years. Due to the importance of a notary's function, the Office is proposing that fees be adjusted and increased to compensate for their time, effort, and assumed liability.

Under this proposed amendment, a notary still has the option to not charge a fee for a notarization. The Office has always allowed notaries public to manage fees and personally understand the potential ramifications when setting their own fee structures versus others who may charge a lower fee, or those who do not charge fees. It should be noted that the Office does not charge for notarizations, and as such, the state will not see any additional revenue on these proposed changes.

Under the proposed amendments a notary public will be required to inform consumers of the notary's fee before performing the notarial act. When quoted, the consumer will make the determination whether he or she wants to pay the fee or look elsewhere for lower-priced notarial services. Additionally, notaries public will now be required to post their fee schedule in a conspicuous location.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

Under these proposed amendments, a notary public may charge a higher fee for his or her time, effort, and assumed liability up to the maximum fee posted.

Consumers may pay less than the maximum listed.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Patricia A. Viverto, Director
Address: Secretary of State, Business Services
1700 W. Washington St., 7th Floor
Phoenix, AZ 85007
Telephone: (602) 542-6187
Fax: (602) 542-4366
E-mail: pviverto@azsos.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed

rule:

Date: Thursday, September 14, 2017
Time: 10:00 a.m.
Location: Secretary of State's Office
Conference Room
State Capitol Executive Tower, 7th Floor
Phoenix, AZ 85007
Nature: Oral proceeding
Close of Record: 5:00 p.m., Thursday, September 14, 2017

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 12. OFFICE OF THE SECRETARY OF STATE

ARTICLE 11. NOTARY PUBLIC BONDS AND FEES

Section

R2-12-1102. Notary Public Fees

ARTICLE 11. NOTARY PUBLIC BONDS AND FEES

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. Once a fee is established, a notary public shall be consistent when charging fees and post their fee schedule in a conspicuous location.
- C. When posting fees under subsections (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 Notaries notary public may charge the following fees:
 - 1. For ~~an acknowledgments-acknowledgment~~ or jurat, \$2 “no charge” up to \$10 per notary public signature;
 - 2. For jurats, \$2 per signature;
 - 3-2. For ~~a copy certifications-certification~~, \$2 “no charge” up to \$10 per page certified;
 - 4-3. For ~~an oaths-oath~~ or affirmations-~~affirmation~~ without a signature, “no charge” up to \$10 per notarial act.

Exhibit 1. Notary Public Services

NOTARY PUBLIC SERVICES

[Business, Office, or Notary Name]

Fees Schedule		
Posted pursuant to R2-12-1102		
<u>acknowledgment or jurat</u>	[Example Fee] No Charge	per notary public signature
<u>copy certification</u>	[Example Fee] No Charge	per page certified
<u>oath or affirmation</u>	[Example Fee] No Charge	per notarial act
<i>Attention Customer: Fees charged by an Arizona Notary Public may vary from “no charge” up to \$10.</i>		

An Arizona Notary Public May Charge the Following Fees:

Posted pursuant to A.R.S. § 38-412		
<u>acknowledgment or jurat</u>	up to \$10	per notary public signature
<u>copy certification</u>	up to \$10	per page certified
<u>oath or affirmation</u>	up to \$10	per notarial act