

## SECRETARY OF STATE

### CHAPTER 15

#### NOTARIES PUBLIC

##### Subchapter 1

##### Commissioning

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#### **44.15.101 APPLICATION FOR A COMMISSION AS A NOTARY PUBLIC**

- (1) A person seeking a commission as a notary public shall make an application on a form prescribed by the Secretary of State that includes the following information:
- (a) applicant's name;
  - (b) applicant's date of birth;
  - (c) applicant's physical/residential address and mailing address;
  - (d) applicant's personal e-mail address;
  - (e) applicant's personal telephone number;
  - (f) applicant's employer's name, address, and telephone number;
  - (g) the date the applicant's current notary commission expires (if applicable);
  - (h) the name under which the applicant's previous commission was issued (if applicable); and
  - (i) whether or not the applicant intends to provide electronic notarization services, and, if so, the identification of the tamper-proof technology the applicant intends to use.

- (2) The application shall indicate if the applicant:
- (a) is at least 18 years old;
  - (b) is a citizen or permanent legal resident of the United States;
  - (c) is a resident of or has a place of employment or practice in Montana;
  - (d) can read and write English;
  - (e) has been convicted of a felony or crime involving fraud, dishonesty, or deceit within the last 10 years;
  - (f) has been found in any legal proceeding or disciplinary action within the last 10 years to have acted fraudulently, dishonestly, or deceitfully; and
  - (g) has had a notary commission denied, revoked, or restricted in any state within the last 10 years.
- (3) The applicant must affirm under oath that the information on the application is true and correct.
- (4) An applicant who is not currently commissioned as a notary public shall submit with the application a certificate proving the applicant has passed a notary public examination approved by the Secretary of State.

(History: 1-5-628, MCA; IMP, 1-5-619, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2008 MAR p. 66, Eff. 1/18/08; AMD, 2015 MAR p. 2096, Eff. 10/30/15.)

#### **44.15.102 APPLICATION FEE**

- (1) The applicant shall submit a \$25 nonrefundable application fee.

(History: 1-5-408, MCA; IMP, 1-5-408, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2001 MAR p. 2162, Eff. 10/26/01.)

#### **44.15.103 NOTARY BOND**

- (1) The applicant shall submit with the application and fee, a bond from an approved bonding company in the amount of \$10,000 for the duration of the period of the notary commission. The bonding company shall notify the Secretary of State's office if the bond is canceled or otherwise not honored.

(History: 2-4-201, MCA; IMP, 1-5-405, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2001 MAR p. 2162, Eff. 10/26/01.)

**44.15.104 CANCELLATION OF COMMISSION** (REPEALED) (History: 2-4-201, MCA; IMP, 1-5-404, 1-5-405, 2-4-604, MCA; NEW, 1993 MAR p. 2250, Eff. 10/1/93; AMD, 2008 MAR p. 66, Eff. 1/18/08; REP, 2015 MAR p. 1913, Eff. 10/30/15.)

#### **44.15.105 FOREIGN NOTARY, APOSTILLE FEES, AND FEDERAL AUTHORITY**

- (1) The applicant shall submit a \$10 nonrefundable application fee.

(History: 1-5-408, MCA; IMP, 1-5-607, 1-5-608, MCA; NEW, 2001 MAR p. 2162, Eff. 10/26/01.)

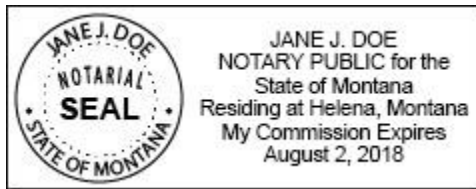
#### **44.15.106 NOTIFICATION TO SECRETARY OF STATE OF CHANGE IN INFORMATION**

- (1) A notary public shall notify the Secretary of State within 30 calendar days of any change in the information on file with the Secretary of State, using the form prescribed by the Secretary of State, including the notary public's:
  - (a) name;
  - (b) physical/residential address;
  - (c) mailing address;
  - (d) personal e-mail address;
  - (e) personal telephone number;
  - (f) employer's name, address, or telephone number; and
  - (g) use of electronic notarization technology.
- (2) When a notary public changes the notary name on file with the Secretary of State, the notary public shall file with the Secretary of State:
  - (a) a rider or other document issued by the notary's surety company showing the change of name; and
  - (b) an example of the notary's new official signature using the form prescribed by the Secretary of State.
- (3) A notary public shall notify the Secretary of State within 14 calendar days of:
  - (a) being convicted of a felony or crime involving fraud, dishonesty, or deceit;
  - (b) being found in any legal proceeding or disciplinary action to have acted fraudulently, dishonestly, or deceitfully; or
  - (c) having a notary commission denied, revoked, or restricted in a state other than Montana.

(History: 1-5-628, MCA; IMP, 1-5-619, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15.)

#### **44.15.107 OFFICIAL STAMP**

- (1) The official stamp of a notary public, whether the impression is on a tangible or electronic record, shall:
  - (a) be rectangular in shape and approximately 1" by 2½" in size;
  - (b) be in blue or black ink;
  - (c) have a circular seal to the left that includes the words "notarial seal," the words "State of Montana," and the notary public's name as it appears on the notary public's certificate of commission;
  - (d) have a block of text to the right of the seal that includes:
    - (i) the notary public's printed name as it appears on the notary public's certificate of commission;
    - (ii) the words "Notary Public for the State of Montana";
    - (iii) the words "Residing at" immediately followed by the name of the city or town and state where the notary public lives; and
    - (iv) the words "My Commission Expires" immediately followed by the notary public's commission expiration date, expressed in terms of the month (spelled out), day, and four-digit year;
  - (e) have a plain rectangular border enclosing the text and seal; and
  - (f) be in the general format illustrated below:



(History: 1-5-628, MCA; IMP, 1-5-616, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15.)

**44.15.108 REAL-TIME, TWO-WAY AUDIO-VIDEO NOTARIZATIONS (REMOTE NOTARIZATIONS)**

- (1) Real-time, two-way audio-video notarizations (remote notarizations) shall only be performed using technology that allows the individuals communicating to simultaneously see and speak to one another.
- (2) When performing remote notarizations, the signal transmission shall be live, real time.
- (3) All remote notarizations shall be recorded electronically.
- (4) Prior to performing any remote notarization, the notary public shall inform all individuals participating in the notarization that the notarization will be electronically recorded.
- (5) All recordings of remote notarizations shall include a recitation by the notary public that includes the following:
  - (a) the notary public's name;
  - (b) the notary public's commission expiration date;
  - (c) a declaration that all individuals participating in the remote notarization have been informed by the notary public that the notarization will be electronically recorded;
  - (d) the date and time the notarial act is being performed;
  - (e) the state and county in which the notary public is located when the notarial act is being performed;
  - (f) the type of notarial act that is being performed;
  - (g) the type or title of record that is being notarized;
  - (h) whether the notarial act is being performed on a tangible or electronic record;
  - (i) whether the individual for whom the notarial act is being performed is being identified by personal knowledge or credible witness; and
  - (j) if a record is being executed, an acknowledgement that the person for whom the notarial act is being performed has the competency or capacity to execute the record.
- (6) All recordings of remote notarizations shall include a recitation by the individual for whom the notarial act is being performed that includes the following:
  - (a) the individual's name;
  - (b) the state in which the individual legally resides;
  - (c) a declaration that the signature made on the record being notarized is that of the individual;
  - (d) the date the individual signed the record being notarized; and

- (e) a declaration that the signature made on the record being notarized was made by the individual knowingly or voluntarily.
- (7) If the individual for whom the notarial act is being performed is being identified by personal knowledge, the recording of the remote notarization shall include an explanation by the notary public as to how the notary public has come to know the individual for whom the notarial act is being performed and the length of time the notary public has known the individual.
- (8) If the individual for whom the notarial act is being performed is being identified by credible witness:
  - (a) the credible witness shall be in the physical presence of the notary public; and
  - (b) the recording of the remote notarization shall include:
    - (i) a statement by the notary public as to whether the notary public identified the credible witness by personal knowledge or satisfactory evidence; and
    - (ii) an explanation by the credible witness as to how the credible witness has come to know the individual for whom the notarial act is being performed and the length of time the credible witness has known the individual.

(History: 1-5-628, MCA; IMP, 1-5-615, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15.)

#### **44.15.109 FEES FOR NOTARIAL ACTS**

- (1) A notary public may charge a fee in accordance with 1-5-626, MCA, for traveling to perform a notarial act.

(History: 1-5-628, MCA; IMP, 1-5-626, MCA; NEW, 2015 MAR p. 1913, Eff. 10/30/15.)