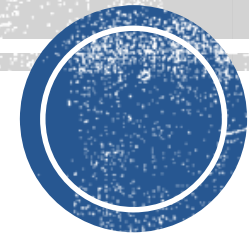


# TEXAS NOTARY FUNDAMENTALS

Why, What and How of Notarization



Kathleen Butler, Executive Director  
American Society of Notaries

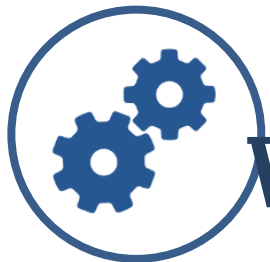
# TODAY

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## WHY

...your notarial acts are important  
...required or essential tools



## WHAT

...standards of professional conduct  
...liability



## HOW

...most-requested notarial acts  
...notarize using proven procedures

# FUNDAMENTALS APPLY TO ALL TEXAS NOTARIES

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Traditional Notary Public	Online Notary Public
<p>All fundamentals, principles of notarization apply.</p> <p>Both subject to Subchapter A, Gov't Code Chap. 406 and Tex. Admin. Code</p> <p>May perform all notarial acts authorized under Gov't Code Sec. 406.016</p>	
<p>Paper and electronic documents, physically present signer</p>	<p>Only electronic documents, signer personally appears online.</p>

*A Notary is a Notary is a Notary...*

# WHY NOTARIAL ACTS MATTER



## Assurances:

✓ Notary as impartial witness to the principal signer's awareness, free will

✓ Notarial certificate  
(*Prima facie* evidence)

*Notarization date and place*

*Signer was identified*

*Specific notarial act performed*

*Notary's signature, official title*

*Official seal*

# WHY NOTARIAL ACTS MATTER



The **assurance** that notarial acts are recognized across state borders.

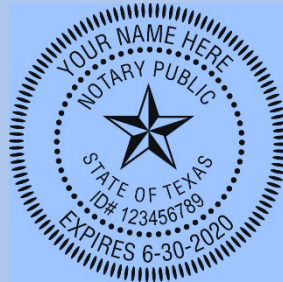
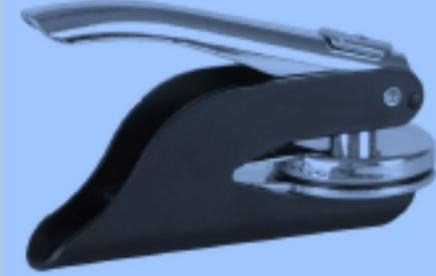
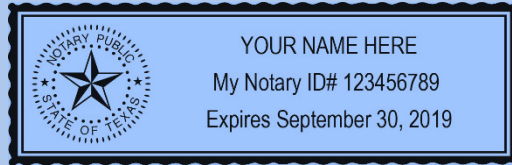
A notarial act performed in one state...



...as if a Notary of the receiving state performed the notarial act.

...is recognized in another state...

# REQUIRED NOTARY TOOLS



- Seal of office
- Record book  
(paper or electronic)
- Fee list, bill/receipt book

SIGNER'S PRINTED NAME		SIGNER'S SIGNATURE		DAYTIME PHONE ( )	
SIGNER'S COMPLETE ADDRESS (STREET, CITY, STATE, ZIP)				VENUE (PLACE OF NOTARIZATION)	
DOC. NAME, DESCRIPTION, # OF PAGES	DOCUMENT OR SIGNATURE DATE	DATE/TIME OF NOTARIZATION	<input type="checkbox"/> OATH/AFF OTHER:	<input type="checkbox"/> ACKNOWLEDGMENT	FEE
DOC. NAME, DESCRIPTION, # OF PAGES	DOCUMENT OR SIGNATURE DATE	DATE/TIME OF NOTARIZATION	<input type="checkbox"/> OATH/AFF OTHER:	<input type="checkbox"/> ACKNOWLEDGMENT	FEE
DOC. NAME, DESCRIPTION, # OF PAGES	DOCUMENT OR SIGNATURE DATE	DATE/TIME OF NOTARIZATION	<input type="checkbox"/> OATH/AFF OTHER:	<input type="checkbox"/> ACKNOWLEDGMENT	FEE
SIGNER WAS <input type="checkbox"/> PERSONALLY KNOWN <input type="checkbox"/> PRODUCED ID		IF CREDIBLE WITNESSES USED FOR SIGNER IDENTIFICATION (WHERE ALLOWED), ENTER "CREDIBLE WITNESSES" UNDER TYPE OF ID, AND RECORD WITNESSES' NAME, ADDRESS, SIGNATURE AND ID TYPE IN ADDITIONAL RECORDBOOK ENTRY.			
ID TYPE: EXPIRES OR ISSUED:		SIGNER'S TRAINING (WHEN REQUIRED)			
ADDITIONAL REQUIRED INFORMATION OR COMMENTS:					

# STANDARDS OF PROFESSIONAL CONDUCT



- DO:**
- ... act lawfully and ethically
  - ... safeguard Notary tools
  - ... maintain commission information, status
  - ... reject improper coercion
  - ... refuse conflicts of interest
  - ... provide service without discriminating
  - ... refuse to notarize when necessary

# NOTARY LIABILITY

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- Unlimited personal liability, every notarization
- Employer can also be exposed
- Your bond protects the public; you repay the surety company plus damages above bond limits.
- Errors & Omissions Insurance protects **YOU**.





# TEXAS NOTARY: AUTHORIZED DUTIES



1 Oaths and affirmations

2 Acknowledgments

*Most requested*

Also

- Proofs of written instruments
- Certify copies of non-recordable documents
- Take depositions, issue protests

# OATHS AND AFFIRMATIONS

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- Same legal effect
- Both compel truthfulness under penalties of perjury about a statement or promise

## Oath:

Truthfulness before  
God

*("...so help you God")*

## Affirmation:

Truthfulness under  
one's own conscience

- Verbal only, or involving a document

# OATHS AND AFFIRMATIONS



## No document:

Notary's verbal ceremony:

*“Do you, John Doe* <sup>[solemnly swear]</sup>  
<sub>[affirm]</sub>

*you will uphold the duties of  
the office to which you have  
been elected [so help you  
God]?”*

## Document:

- Principal signer swears-to or affirms the truthfulness of the document contents.
- Signs document in Notary's presence

Notary's verbal ceremony:

OATH: *“Do you, John Doe, solemnly swear  
under penalties of perjury that the  
information contained in this document  
is true, so help you God?”*

AFFIRMATION: *“Do you, John Doe, affirm  
under penalties of perjury that the  
information contained in this document  
is true?”*

# OATHS AND AFFIRMATIONS



## Certificate Elements

Venue

Indicates oath

Means "signed"

Indicates presence

Exact date of notarization

Name of principal signer who appears

Notary's official signature

Official notarial seal

Title of office

State of Texas

County of *(where notarization is performed)*

Sworn to and subscribed before me on

the (date) day of (month), (year), by

*Name of Principal*

( *Notary Public's Signature* )

[SEAL]

NOTARY PUBLIC, STATE OF TEXAS

Can be  
"Affirmed" instead of  
"Sworn to"

Oath/affirmation  
and signature occur  
in Notary's  
presence.

# ACKNOWLEDGMENTS

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- Person declares (acknowledges) signing a document voluntarily, for its stated purposes and considerations.
- Document may already be signed, or may be signed in the Notary's presence.
- Signer may sign for himself, or as agent for the principal.

# ACKNOWLEDGMENTS

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- Signer may sign for himself, or as agent for the principal or party.

## Individual capacity:

*An individual (principal) acknowledges his signature before the Notary.*

## Representative capacity:

*Another person has authority to acknowledge the principal's signature before the Notary.*

*Notary not responsible for verifying representative capacity.*

- Verbal ceremony

*“Do you, John Doe, acknowledge signing this document willingly, for the purposes and consideration stated in it?”*

# ACKNOWLEDGMENTS



## Certificate Elements (Individual Acknowledgment)

“Short Form”\*

Venue

State of Texas  
County of (where notarization is performed)

Indicates acknowledgment

Indicates presence

Acknowledged before me on the

Exact date of notarization

(date) day of (month), (year), by

Name of principal signer who appears

\_\_\_\_\_.

Name of Principal

Notary’s official signature

\_\_\_\_\_  
( Notary Public’s Signature ) [SEAL]

Official notarial seal

Title of office

NOTARY PUBLIC, STATE OF TEXAS

Signature can be made before notarization or during, but is always acknowledged in the Notary’s presence.

\*If not the statutory short form, must indicate whether signer was identified by personal knowledge or satisfactory evidence.

# ACKNOWLEDGMENTS



## Certificate Elements (Representative-Capacity Acknowledgment)

*Venue*

*Indicates acknowledgment*

*Indicates presence*

*Exact date of notarization*

*Name of person PRESENT before Notary*

*Representative capacity of person PRESENT*

*The person or entity represented*

*Notary's official signature*

*Official notarial seal*

*Title of office*

State of Texas

County of (where notarization is performed)

Acknowledged before me on the

(date) day of (month), (year), by

\_\_\_\_\_ as  
\_\_\_\_\_

*Name of Representative*

*Title of*

*Representative*

*for/of*

\_\_\_\_\_  
*Name of Principal or Entity Represented*

( Notary Public's Signature )

[SEAL]

NOTARY PUBLIC, STATE OF TEXAS



# NOTARIZATION PROCEDURE

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1. Require personal appearance
2. Examine the document
3. Discuss fees
4. Identify the principal signer
5. Create a record
6. Document execution, verbal ceremony
7. Complete the notarial certificate

# NOTARIZATION PROCEDURE



## 1 Require Personal Appearance

**Physical presence of the principal signer is REQUIRED.**

- Paper-document notarizations
- Electronic notarizations NOT performed online

## 2 Examine (Scan) the Document

- a. Is it complete? (All pages present; no blanks)
- b. Review the notarial certificate wording; is the notarial act authorized?
- c. Who is/are principal signer(s) named in the document?
- d. Is the document is already signed (acknowledgment only)?
  - Signature date
  - Original
- e. Determine document information needed for recordbook entry

# NOTARIZATION PROCEDURE



## 3 Discuss Fees

- Fees are optional
- Before notarizing, disclose intent to charge fees. Itemize and present fees.
- Remember posting of fees is required.
- Don't charge fees above those specified in statute.

## Allowable Fees

### Most-requested notarial acts:

- Acknowledgment or proof - **\$6** (\$1 ea. add'l sig.)
- Oath or affirmation (certificate and seal) - **\$6**

*See Texas Gov't Code Sec. 406.024 for other authorized fees.*

# NOTARIZATION PROCEDURE



## 4 Identify the Signer(s)

## Satisfactory Identification

For paper-document notarizations and electronic notarization that is NOT performed online:

Personal knowledge

- **A current identification card** or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person.

*\* Foreign Passport ONLY with respect to a deed or other instrument relating to a residential real estate transaction.*

Satisfactory evidence  
of identification

- **Verbal oath of a credible witness** who is personally known.

# NOTARIZATION PROCEDURE



## 5 Create a Record

## Entry Requirements (Gov't Code S.406.014)

Create a record of every notarial act performed

Book, computer or other storage device (UNLESS for an online notarization)

Public record

- Date of each document notarized
- Date of notarization
- Name of person appearing (signer, grantor, subscribing witness or maker)
- The person's mailing address
- How the person was identified (personally known, or type of satisfactory evidence; include name and mailing address of any credible witness)
- How a subscribing witness, if applicable, was identified (personally known or credible witness, only)
- Name, address of grantee
- If land conveyed, name of original grantee, county where land located
- A brief description of the document

# NOTARIZATION PROCEDURE



## 6 Document Execution, Verbal Ceremony

Witness or review  
the principal  
signer's signature



Perform the  
appropriate verbal  
ceremony

### **Oath or affirmation:**

“Do you, John Doe, [solemnly swear] [affirm] under penalties of perjury that the information contained in this document is true, [so help you God]?”

### **Acknowledgment:**

“Do you, John Doe, acknowledge signing this document willingly, for the purposes and consideration stated in it?”

# NOTARIZATION PROCEDURE



## 7 Complete the Notarial Certificate

Always at the time of the notarial act; never before or later



Print legibly with permanent ink; affix clean, crisp seal impression. Do not overlap text.

**Notarial certificate (completed by a Traditional Notary Public) must include:**

1. Name of the principal signer
2. Date of notarization
3. State and county in which the notarization is performed
4. Notarial act performed
5. Notary Public's signature
6. Notary Public's seal

# REFUSE OR STOP THE NOTARIZATION

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1. A requirement of notarization is missing
2. A requirement of notarization is refused
3. An act not authorized is requested
4. Doubts about the signer's comprehension, willingness
5. Reasonable belief that the signer is coerced
6. Reasonable belief that the document will be used unlawfully or improperly
7. Not familiar with the requested notarial act

See Tex. Admin. Code Sec. 87.42



# PROHIBITED ACTS

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- D** ... notarize without the signer present
- O** ... notarize your own signature
- N'** ... alter or change any part of the *document* content
- T** ... choose the notarial certificate
- ... execute a false certificate or use a different name than as commissioned
- ... journal an ID number or personally identifying number(s)
- ... misrepresent Notary powers (giving advice, advertising) or perform  
    unauthorized functions
- ... issue an identification card
- ... overcharge, or charge a fee not expressly allowed

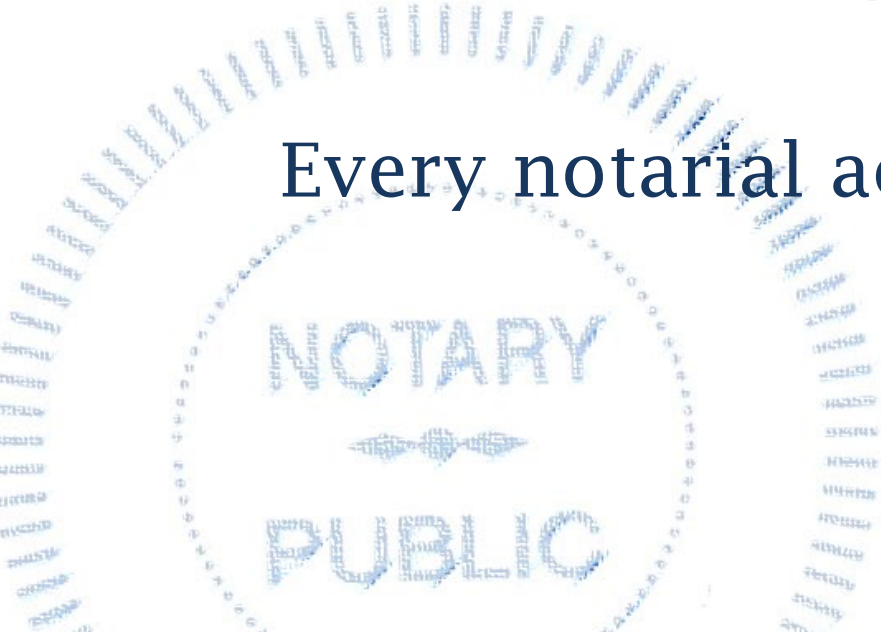
# REMEMBER...

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The office of Notary Public is ancient, honorable.

Your notarial acts create assurances that have been valued by relying parties for centuries.

Every notarial act matters... **Notaries Public matter.**



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# *Thank you!*

**Texas Notary Fundamentals: Why, What and How of Notarization**  
**Presented by Kathleen Butler, Executive Director**  
**American Society of Notaries**  
**March 2019**



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