

## NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for 1 or 2 180-day periods if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

### NOTICE OF EMERGENCY RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 12. SECRETARY OF STATE

#### PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
Article 11	New Article
R2-12-1101	New Section
R2-12-1102	New Section
R2-12-1103	New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: Laws 2000, Ch. 210, §§ 2 and 3

Implementing statutes: Laws 2000, Ch. 210, §§ 2 and 3
- 3. A list of all previous notices published in the Register addressing the proposed rule:**

Notice of Emergency Rulemaking: 6 A.A.R. 2956, August 11, 2000

Notice of Rulemaking Docket Opening: 6 A.A.R. 2959, August 11, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 4484, December 1, 2000
- 4. The effective date of the rules:**

January 12, 2001
- 5. Is this rulemaking a renewal of a previous emergency rulemaking?**

Yes
- 6. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Mimi Griffiths Director, Public Services Division
Address:	Office of the Secretary of State 1700 West Washington, 7th Floor Phoenix, Arizona 85007
Telephone:	(602) 542-0223
Fax:	(602) 542-4366
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**7. An explanation of the rule, including the agency's reasons for initiating the rule:**

The amounts notaries public are allowed to charge for their services and the amount of the surety bond a notary must purchase before being commissioned as a notary have previously been set by statute. Laws 2000, Ch. 210, § 2 took the amount of the fees and the bond out of statute and required the Secretary of State to prescribe the amount of both by rule.

Until 1996, notaries in Arizona were allowed to charge up to 75¢ per signature notarized. In 1996, the law was changed so that notaries could charge up to \$2 per signature notarized, oath administered, or page certified. Many states are now realizing that the fees notaries have traditionally been allowed to charge do not take into consideration the time and effort a notary must take when performing a notarization and the liability they must face. New Mexico's fees for acknowledgments and jurats are \$1, the lowest of any of the southwestern states. Utah and Colorado both allow \$5 for an acknowledgment or a jurat, although Nevada specifies that each additional signature being acknowledged has a charge of \$2.50. Texas allows \$6 for acknowledgments and jurats, with \$1 the charge for each additional signature being acknowledged. California is the highest state at \$10 for acknowledgments and jurats.

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

Not applicable

**9. A reference to any study that the agency proposes to rely on in its evaluation or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

No specific study was made. However, the Office researched the amounts for fees and bonds for notaries in neighboring states via each state's web site.

**10. The summary of the economic, small business, and consumer impact:**

These emergency rules do not change the amounts of the fees and bonds currently specified in statute. Therefore, there is no additional economic, small business, or consumer impact.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

No applicable

**13. An explanation of the situation justifying the rule's adoption as an emergency rule:**

Because the emergency rules expire January 13, 2001, and because the regular rulemaking process has taken longer to accomplish than anticipated, we are renewing these emergency rules. The notice of proposed rulemaking appeared in the *Register* in the December 1, 2000, issue. A public hearing is scheduled for January 8, 2001, with the close of record occurring February 8, 2001. We anticipate having the rules ready as final rules to submit to the Attorney General in late February or early March 2001.

**14. The date of the Attorney General's approval of the emergency rules:**

January 12, 2001

**15. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 12. SECRETARY OF STATE**

**ARTICLE 11. NOTARY PUBLIC BONDS AND FEES**

Sections

R2-12-1101.      Definitions

R2-12-1102.      Notary Public Fees

R2-12-1103.      Notary Public Bonds

**ARTICLE 11. NOTARY PUBLIC BONDS AND FEES**

**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 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).

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

Notaries public may charge the following fees:

1. For acknowledgments, \$2 per signature;
2. For jurats, \$2 per signature
3. For copy certifications, \$2 per page certified;
4. For oaths or affirmations without a signature, \$2.

**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 of the bond shall be filed with the clerk of the superior court in the applicant’s county of residence.

**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.