

The Guarantor of Trust for Today's Business

# Why Notarization Is More Relevant and Vital Than Ever



**NATIONAL  
NOTARY  
ASSOCIATION**

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## INTRODUCTION

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Trust allows our mobile, global, digital and anonymous Society to function.

Trust is the lifeblood of modern society. It is the sine qua non of a complex culture in which business dealings between strangers are the norm rather than the exception.

Trust enables the sensitive instruments of commerce and law — from deeds conveying real property to contracts promising essential services — to be exchanged with confidence.

Trust allows our mobile, global, digital and anonymous Society to function. Without it, the disastrous consequence would be disorder, uncertainty and increased threats of fraud.

Paradoxically, even though Society must trust strangers to conduct business, it wants to know as much about the transacting parties as possible to assure that its agreements and promises are made reliably.

Thus, today's Society has increased dependence on a process that enables confidence and engenders trust. It is reliant on a system that maintains the rule of law, preserves the integrity of an agreement, and ensures the authenticity of a transaction. This indispensable process is in place and working well, though it is often misunderstood and unfairly criticized.

That process is called notarization, and it is more relevant and vital than ever.

## WHY NOTARIZATION IS IMPORTANT

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Notarization is rooted in a rich history that dates back to Roman civilization. For thousands of years, the process has represented the trust, assurance and legitimacy of official documents backed by a governing body.

Though countless documents are freely exchanged in our Society, individuals and organizations require greater guarantees of trustworthiness and authenticity relative to certain agreements.

Notarization imbues a written document with undeniable and unspoken intention and commitment, providing a singular and secure solution that gives trust a material form. It is the official certifying process that renders documents worthy of the public trust, and offers assurance that a document is authentic, that its signature is genuine, and that its signer acted willingly and intended the terms of the document to be in full force and effect.

It is the official certifying process that renders documents worthy of the public trust

An individual's acceptance, consent or signature taken separately — or even together — cannot deliver the security and certainty that notarization provides.

Individuals entering into agreements personally appear before an impartial and unbiased Notary Public, are identified as the person they claim to be, and acknowledge that they understand the contents of the document and signed it voluntarily.

Importantly, the resulting notarized document becomes distinguishable from any other because of the seal and official, original signature of the Notary Public.

## THE DIFFERENT NOTARIAL ACTS

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Notarizations — more commonly called “notarial acts” — fall into three categories: acknowledgments, jurats and copy certifications. Each category has a specific purpose, but all share the common aim of facilitating commerce and law through a network of trust.

Additional information on [properly performed notarial acts](#)

**Acknowledgments.** The acknowledgment is typically performed on documents controlling or conveying ownership of assets. Such documents include real property deeds, powers of attorney and, in some cases, trusts and wills. The signer must appear in person at the time of notarization to be positively identified, and to declare (“acknowledge”) that the signature on the document is his or her own, that it was willingly made, and that the provisions in the document are intended to take effect exactly as written. This notarial act is authorized by law in 50 states and all other U.S. jurisdictions.

**Jurats.** The jurat is typically performed on evidentiary documents that are critical to the operation of our civil and criminal justice system. Such documents include affidavits and depositions. For a jurat, the signer must appear in person at the time of notarization to sign the document, and to recite aloud an oath or affirmation promising that the statements in the document are true. (An oath is a solemn pledge to a supreme being; an affirmation is a solemn pledge on one's personal honor.) A person who takes an oath or affirmation in connection with an official proceeding may be prosecuted for perjury should he or she fail to be truthful. This notarial act is authorized by law in 50 states and all other U.S. jurisdictions.

**Certified Copies.** The copy certification is performed to confirm that a reproduction of an original document is true, exact and complete. Such originals might include college degrees, passports and other documents which cannot be copy-certified by a

The seal is the universally recognized symbol of the Notary office.

record office such as a bureau of vital statistics or recorder of deeds. This notarization is not authorized in every state, but in the jurisdictions where it is allowed, may be executed only with certain original documents.

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Each state and the other U.S. jurisdictions adopt its own laws governing the performance of notarial acts. While different laws are largely congruent with most common notarizations — particularly acknowledgments and jurats — there are some unusual laws. In Washington state, for example, certification of the occurrence of an act or event is an authorized notarization. In Maine, Florida and South Carolina, performing a marriage ceremony is an authorized notarial act. And in Florida, Notaries may also verify vehicle identification numbers.

Attached to, or part of, a document to be notarized is a “notarial certificate” that states what facts are being certified. While wording requirements differ from state to state, common wording in a jurat, for instance, states that an affidavit was “...signed and sworn to before me, the undersigned Notary Public, by John Q. Doe...” Common wording in an acknowledgment certificate states that a document signer personally appeared “...and was known to me or satisfactorily proven to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same...”

A Notarization is complete upon the affixation of the Notary’s signature and seal of office on a certificate. The seal is the universally recognized symbol of the Notary office. Its presence gives a notarized document appreciable weight in legal matters and renders it genuine in a court of law.

The role of a Notary Public cannot be replicated by individuals in the general public.

## THE NOTARY PUBLIC

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Every notarization is performed by a Notary Public. Notaries must apply to a state agency, typically the Secretary of State — in some cases, the office of the Lieutenant Governor (Alaska) or Attorney General (Hawaii) — and submit an application in which they are often required to prove that they are individuals of good moral

Impartiality also means that Notaries must operate independently and resist improper or illegal requests or demands.

character and can skillfully and competently perform their official duties. Statute in some states empowers certain other public officials, such as judges and county clerks, to act as a Notary.

Applicants are required to read and write English, but following a 1984 Supreme Court decision, they are not required to be U.S. citizens. Their terms of office range from two to 10 years, depending on the state.

The role of a Notary Public cannot be replicated by individuals in the general public. Few other individuals have the requisite training, experience and impartiality necessary to positively verify the identity of a signer, assure willingness and confirm the act of acknowledgment or administration of an oath or affirmation.

This is why state laws and rules universally maintain that Notaries, as public officials, should receive no personal benefit from the transactions they notarize. They must also never refuse to serve a person due to race, nationality, religion, politics, sexual orientation or status as a non-customer.

Impartiality also means that Notaries must operate independently and resist improper or illegal requests or demands of supervisors, customers, friends or family members.

There may be times when signers, employers or other third parties request that a Notary take “shortcuts” — like not requiring the personal appearance of a signer — for the sake of expedience. But, such improprieties are a violation of state law and can carry severe criminal and civil penalties.

Notaries are ministerial officials who must adhere to more stringent state laws, directives and regulations. Consequently, Notaries, unless otherwise appropriately trained and credentialed, may not prepare documents, offer legal advice or explain the contents of a document to a signer. Likewise, Notaries may not advise a signer on any aspects of a transaction nor determine the type of notarization required. This determination must be made by either the signer, or the relying party or an attorney. A ministerial officer is liable for his negligence regardless of intention, as distinguished from judicial officers who are liable only for their corrupt and unintentional acts.

Whether the Notary's appointment is called a commission or a license, Notaries are accountable for following the law and have unlimited financial liability for any harm caused another person by their negligence or intentional misconduct.

Notary laws in every state require that document signers always appear in person before the Notary at the time of notarization to authenticate their identity and their intention that a particular document or transaction to be in full force and effect. Yet,

Learn more about [Notary legislation and model statutes](#)

for the sake of expedience and other reasons, this is the law that Notaries are most often pressured to violate.

The identification requirement, has, in recent years, eclipsed most of the other notarial obligations as a result of a more mobile society and the growing cases of identity theft, forgery, imposture and fraud.

The issue of identification has risen to such importance that former U.S. Secretary of Homeland Security Michael Chertoff has stated: "In the 21st century, the most important asset that we have to protect is the control of our identity, who we are, how we identify ourselves, whether other people are permitted to masquerade and pretend to be us, and thereby damage our livelihood and assets."

Today, because of their familiarity with verifying identity as part of their traditional function, as well as for their impartiality, Notaries are now being used to verify the identity of individuals in a variety of situations, even for electronic transactions or communications, in which confirmation of an individual's identity and the authenticity of an accompanying electronic signature must be established.

## GUARANTORS OF AUTHENTICITY

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Find out [how Notaries uphold their official duty](#)

Twenty first-century Society knows that if it must trust complete strangers in its functions — an inescapable reality of modern life — confidence must be firmly grounded. It must be an unshakable assurance. And it cannot be done with blind faith. This is why Society relies upon the nearly five million Notaries in the United States to ensure that signers of important papers are who they say they are and to lend credibility to the intentions, obligations and performances memorialized in written documents.

Properties are conveyed, contracts are honored, adoptions are finalized, estate plans are established and medical wishes are respected — all because documents bearing the authenticating signature and seal of a Notary Public are trusted.

The notarial act is the foundation of trust and the Notaries who perform them are Society's guarantors of integrity and authenticity.

## **About The National Notary Association**

The National Notary Association, founded in 1957, is the leading authority on the American Notary office and is recognized nationally and internationally for its work regarding notarial customs, laws, practices and ethics.

As the largest organization serving the nation's 4.8 million Notaries, the nonprofit professional Association supports a membership that represents every U.S. state and jurisdiction — and in many other countries — by promoting best practices that bolster consumer protection, and by inspiring Notaries to uphold their important role as deterrents to fraud.

Working to preserve the national public trust, the NNA also promotes understanding about the Notary's important role and duties in society. It has drafted and published the Model Notary Act to help lawmakers introduce effective legislation, and established The Notary Public Code of Professional Responsibility — a comprehensive standard for ethics, best practices and professional conduct.

Through its nationally accredited educational programs and member benefits, the NNA provides the guidance Notaries need to comply with state laws, rules and requirements; to safeguard themselves and their employers from liability; to manage risk to prevent fraud and identity crimes; to perform professionally at the highest ethical standards; and to take advantage of opportunities that arise out of elevated levels of training and qualification.

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