



County Technical Assistance Service

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Notary Public Applications

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Capitol Blvd. Suite 400
Nashville, TN. 37219
615-532-3555 phone
615-532-3699 fax
ctas@tennessee.edu
www.ctas.tennessee.edu

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Notary Public Applications

Reference Number: CTAS-666

A notary public is a state official with statewide jurisdiction whose duties are prescribed by statute. Op. Tenn. Att'y Gen. 07-157 (November 26, 2007). However, the county clerk and the county legislative body are involved in the application and approval process for notaries before they are approved by the governor.

Beginning July 1, 2019, a person who has been commissioned as a notary public may apply to the Tennessee secretary of state to be commissioned as an online notary public under the Online Notary Public Act, T.C.A. §§ 8-16-301 *et seq.* The county clerk and the county legislative body are not involved in the commission of online notaries.

Qualifications, Election and Powers

Reference Number: CTAS-667

All notaries must be 18 years of age and be either a United States citizen or a legal permanent resident. T.C.A. § 8-16-101. Notaries are elected by the county legislative body in the county in which they reside or have their principal place of business (T.C.A. § 8-16-101), and are approved by the governor. T.C.A. § 8-16-102. A person with a principal place of business in a Tennessee county may be elected a notary in that county even though that person's residence is in another state. T.C.A. § 8-16-101. The same basic disqualifications exist for notaries as for other county offices. T.C.A. § 8-18-101. A notary may be removed from office just as any other official. The notary's term is four (4) years, beginning on the date of issuance of the commission by the governor T.C.A. § 8-16-103. Renewal is by the same method as the original procedure.

In addition to the qualifications discussed above, an applicant for notary public must certify, under penalty of perjury, that the person (1) has never been removed from office as a notary public for official misconduct, (2) has never had a notarial commission revoked or suspended by this or any other state, and (3) has never been found by a court of his state or any other state to have engaged in the unauthorized practice of law. T.C.A. § 8-16-101.

A fee of twelve dollars (\$12.00) is paid to the county clerk in the county of election for issuance of a commission, (five dollars (\$5.00) to the secretary of state under T.C.A. § 8-21-201 and seven dollars (\$7.00) to the county clerk under T.C.A. §§ 8-16-106 and 8-21-701. The county clerk will certify the election and forward the five dollar (\$5.00) fee to the secretary of state, who, upon receipt of the certificate and the fee, will forward the commission to the county clerk issued by the governor. The county clerk notifies the person to whom the commission was issued, and, after the oath has been taken and bond posted, the county clerk delivers the commission to the person elected. The county clerk receives a fee of two dollars (\$2.00) for taking and recording the official bond under T.C.A. § 8-21-701. The county clerk must keep a record of the issuance and expiration dates of commissions, noting such on the bond and in a minute entry. T.C.A. § 8-16-107.

Notaries are required to live in or have their principal place of business in the county from which they are elected only at the time of their election. If the notary moves to another county, the notary must notify the county clerk in the county from which the notary was elected and pay a fee of seven dollars (\$7.00). The county clerk must notify the secretary of state of the change of address and forward two dollars (\$2.00) of the fee to the secretary of state. The county clerk retains the remaining five dollars (\$5.00). T.C.A. § 8-16-109. If a notary moves out of state, the notary is no longer qualified to act; it is a Class C misdemeanor for a notary to take acknowledgements after moving out of the state. T.C.A. § 8-16-110.

All notaries public are authorized to act in any county in the state and may acknowledge signatures, administer oaths, take depositions, qualify parties in bills in chancery, and take affidavits T.C.A. § 8-16-112. Notaries are entitled to charge reasonable fees for their services, and if a fee is charged the notary must keep a record, either electronically or in a well-bound book, of each of the notary's acts, attestations, protestations, and other instruments of publication. T.C.A. § 8-21-1201.

Notary Public Bonds

Reference Number: CTAS-668

After election by the county legislative body, and before commencing duties or exercising powers, a notary must post bond. T.C.A. § 8-16-104. **Bonds** are covered in detail under the **General Information** tab of the County Offices topic.

Oaths-Notary Public

Reference Number: CTAS-669

The notary must take and subscribe to an oath before the County Clerk or a deputy County Clerk to support the Constitutions of the State of Tennessee and the United States and that the notary will, without favor or partiality, honestly, faithfully, and diligently discharge the duties of notary public. T.C.A. § 8-16-105.

Notary Public Seal

Reference Number: CTAS-670

The notary must purchase an official seal. The secretary of state prescribes the design of the seal, which is to be imprinted by a rubber or other type stamp in any color other than black or yellow as long as it is clearly legible and appears black on a non-color copier; however, the law provides that a document will not be invalid nor will there be any criminal or civil liability if a notary uses the wrong color ink. Also, the use of an embossed notary seal after May 12, 2003, does not render an acknowledgment defective. The seal must be surrendered to the county legislative body upon expiration of the notary's term of office or resignation and the personal representative must surrender the seal in the event of the death of the notary. T.C.A. § 8-16-114. The current design prescribed by the Secretary of State is circular, and has the notary's name (as commissioned) printed at the top, the county of election at the bottom, and State of Tennessee Notary Public in the center. The county clerk may obtain the official seal for the notary public at the notary's request. For providing this service the county clerk may charge a fee not exceeding twenty percent (20%) of the cost of the seal. T.C.A. § 8-16-114.

Statutory Form Acknowledgment

Reference Number: CTAS-671

Statutory forms for acknowledgment of instruments are set out in T.C.A. § 66-22-107 (for natural persons) and T.C.A. § 66-22-108 (for partnerships and corporations) and T.C.A. § 66-22-114 (another general form). A basic form for acknowledgment of instruments signed by a natural person is as follows T.C.A. § 66-22-107:

State of _____

County of _____

Personally appeared before me, [name of officer], [official capacity of officer], [name of the natural person executing the instrument], the within named bargainer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the within instrument for the purposes therein contained.

Witness my hand, at office, this ____ day of _____, 20__.

Although the exact language of the forms is recommended, acknowledgments complying with the substance thereof are valid. T.C.A. § 66-22-114.

In using the above quoted forms, the notary should make certain the proper pronoun, he, she, they, etc., is used. So far as possible, there should be no changes or alterations in the body of the acknowledgment; but should they be required, the notary should initial such changes wherever they appear.

The expiration date of the notary's commission must appear on every certificate of acknowledgment. However, failure to include the expiration date does not invalidate the instrument. T.C.A. § 8-16-115.

Notary Public Fees

Reference Number: CTAS-2203

Under T.C.A. § 8-21-1201, a notary public or the notary's employer may charge reasonable fees and compensation for the notary's services. If a fee is charged, the notary must keep a record either electronically or in a well-bound book of each action. If a separate fee is not charged for the notary's services, the notary is not required to keep a record of the action.

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