

# 73 Notary Terms and Definitions

1. **Acknowledgment:** a notarial act whereby the signer of a document admits to an officer of the state, such as a notary public, that he signed the document; that he understands the contents of the document; and that he is aware of the consequences of executing the document by signing it. The signer also indicates to the notary that he signed the document of his own free will and was not coerced into signing a document that he did not want to sign.  
Acknowledgments are taken from signers of documents such as deeds, contracts and powers of attorney. By signing the document the signer agrees to the terms and conditions of the document. The signer does not have to sign the document in the presence of the notary, but the document must display the signer's original wet ink signature.
2. **Acknowledgment Certificate:** a written statement usually found on a document just below the signer's signature block that records and certifies the details of the acknowledgment notarial act that just took place. The certificate must contain a description of the site of the notarial act, the name(s) of the person(s) acknowledging their signing of the document, an indication that an acknowledgment notarial act was performed; and a statement that the signer personally appeared before the notary, understood the contents of the document and signed the document willingly. The notary also certifies the date that the acknowledgment was taken, signs the acknowledgment notarial certificate and places her notary seal on the certificate. By signing and sealing the acknowledgment certificate the notary certifies as an officer of the state that the acknowledgment notarial act described indeed took place.
3. **Administer:** to discharge the duties of an office; to give (as in the giving of an oath).
4. **Affiant:** the person making an affidavit.
5. **Affidavit:** a document in which the affiant makes a statement and swears or affirms under penalty of perjury that the information in the statement is the truth. The affidavit will contain a jurat notarial certificate. The affiant must sign the statement in the presence of the notary.
6. **Affirmation:** a solemn statement of truth made under penalty of perjury, equivalent by law to an oath, but without religious significance or reference to a Supreme Being.
7. **Affix:** to attach or impress the notary seal to a document.
8. **Apostille:** a certificate issued by the appropriate office of a state government (for example, the Governor, Lt. Governor, Secretary of State, Treasurer, etc. depending on the state) for purposes of authenticating a notary's signature and official status as a notary on a particular date. An apostille may be required for a notarized document that is bound for a foreign country that participates in the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. Obtaining an apostille is the responsibility of the document custodian, not the notary.
9. **Attest:** to bear witness to, to sign a document as a witness, or to affirm as true.
10. **Attestation Clause:** the statement a witness signs who is attesting the signature of a document as a witness.

11. **Attested Copy:** A copy of an original document that was made by the notary, or that the notary witnessed someone else make. Notaries in some states are allowed to make an attested copy of an original document if it is not a vital record (see below) or recordable document (see below). These states differentiate between an attested copy which may be made by a notary, and a certified copy which may be made only by the public official who has custody of the original record.
12. **Attorney-in-Fact:** the person authorized by a power of attorney to act on behalf of another.
13. **Authentication:** a process by which the designated office that issues authentication's for a state government (for example, the Governor, Lt. Governor, Secretary of State, Treasurer, etc. depending on the state) certifies the signature and official status of a notary public on a particular date. An "Apostille" or "Certificate of Authority" is attached to the notarized document, depending on the document's destination. (See the definition of Apostille for additional information.) Most commonly, authentications are requested for notarized documents that are bound for a foreign country. Obtaining an apostille or certificate of authority is the responsibility of the document custodian, not the notary.
14. **Bill of Sale:** a document that passes title of personal property.
15. **Certification Authority (CA):** a trusted party that issues computer-readable tokens, called digital certificates, that prove the identity of people using digital signatures to sign electronic documents. This is done by a certification company obtaining proof of identity similar to what notaries do when performing a notarial act. The CA then creates a digital certificate that is associated with that individual's digital signature.
16. **Certified Copy:** a copy of a document or record, signed and certified as a true copy by the public official who has custody of the original record (for example, the local clerk of courts or state department of vital statistics). The term "certified copy" sometimes is used interchangeably with "attested copy" (see above), even though these are two different things.
17. **Certify:** to authenticate or attest as being true or as represented.
18. **Civil Action:** a lawsuit or legal action between two or more parties.
19. **Codicil:** a document that modifies the terms of a will.
20. **Coerce, Coercion:** to make someone feel they must do something (such as sign a document) when they do not want to do so.
21. **Commission:** the action of each state's appointing authority to appoint someone as a notary public. The certificate issued by the appointing authority in each state to announce that appointment.
22. **Conveyance:** a document affecting or changing the title/ownership of real property.
23. **Copy Certification:** the process in which the notary takes an affidavit from the document custodian stating that the document to which the affidavit is attached is a true and complete copy of a document that is neither a vital record (see below) or publicly recordable document (see Recordable Document below).

24. **Credible Witness (allowed in many, but not all, states):** Where allowed, a credible witness provides a way to positively identify a signer who lacks satisfactory identification documents. The credible witness must be able to truthfully swear an oath/affirmation that: he/she personally knows the signer; the signer has no other form of acceptable identification; such identification would be difficult or impossible for the signer to obtain; and the credible witness has no connection to the underlying transaction. If one credible witness is used, he/she must be personally known to both the notary and the signer. If two credible witnesses are used, they must personally know the signer and be able to present the notary with positive identification. (State statutes differ on allowing use of one or two credible witnesses – see State Information.)
25. **Custodian of the Document:** the person who has charge or custody of the document. In the case of making an attested photocopy, the “document’s custodian” is the person presenting the document, who may or may not be the document signer or a party named in the document.
26. **Deed:** a document by which a person conveys (transfers) real property.
- **Quitclaim Deed:** a deed intended to pass any title, interest, or claim which the grantor may have in the real property, but not professing that such title is valid or containing any warranty for title.
  - **Warranty Deed:** a deed in which the grantor warrants or guarantees good clear title to the real property.
27. **Deponent:** the person giving sworn testimony in a deposition.
28. **Deposition:** the testimony of a witness, under oath or affirmation, taken outside of court in which lawyers ask oral questions of the deponent. The testimony is usually reduced to writing and duly authenticated and is intended to be used in a trial of a civil action or a criminal prosecution.
29. **Digital Signature:** a specific type of electronic signature used to denote encryption technology. It is a process that provides for a secure signature on an electronic document, one that can prove the signature belongs to the person who signed it, and that can be associated with the document in such a way that any modifications to the document invalidate the signature.
30. **Document Custodian:** the person who has charge or custody of the document. In the case of making an attested copy, the document custodian is the person presenting the document, who may or may not be the document signer or a party named in the document.
31. **Electronic Notarization:** the process of performing a notarial act according to the applicable state laws on an electronic document, rather than a paper document.
32. **Electronic Signature:** any electronic character, symbol, letter, sound, or process that has been attached to or logically associated with an electronic record, and executed or adopted by a person with the intent that it shall be his signature.

33. **Escrow:** putting documents, property, or funds in the hands of an independent third party.
34. **Execute a Document:** to perform all formalities necessary to make a document fully effective. This is often a matter of just signing, but may also require a notarial act, delivery, or other element.
35. **Executor:** a person in charge of carrying out the provisions of a will.
36. **Free Act and Deed:** sometimes found in acknowledgment notarial certificates (see Acknowledgment Certificate above) to indicate that the signer was not coerced (see Coerce, Coercion above) into signing the document.
37. **Grantee:** a person (usually the buyer) who receives the deed of real property from the grantor.
38. **Grantor:** a person (usually the seller) who transfers a deed of real property to the grantee.
39. **Guardian:** a person in charge of a minor and/or their property.
40. **Identification Document:** in the event a notary does not personally know (see Personally Known below) the signer, the notary may accept an identification document that is deemed acceptable by the state notary law.
41. **Instrument:** this may be a written document, or an electronic document. As used in notarial law and practice, an instrument is a document that requires a signature and a notarial act to be fully executed.
42. **Jurat:** the written notarial certificate found on an affidavit, application or other document, indicating that the signer swore or affirmed to the notary under penalty of perjury that the information in the document is the truth. It also certifies that the signer signed the document in the presence of the notary on the date indicated in the jurat.
43. **L.S. (locus sigilli):** “the location where the seal is placed” in Latin.
44. **Lien:** a legal right or security attached to real estate or personal property until the payment of some debt, obligation, or duty.
45. **Malfeasance:** the doing of an act which a person should not do at all.
46. **Misfeasance:** the improper doing of an act which a person might do lawfully.
47. **Mortgage on Real Property:** a document creating a lien on a property.
48. **Negligence:** the failure to use such care as a reasonably prudent and careful person would use under similar circumstances.
49. **Notarial Act:** an official act that a notary public is authorized to perform by statute.
50. **Notarial Certificate:** a written statement signed and sealed by the notary public certifying the facts of the notarial act performed immediately prior to filling out the notarial certificate.

51. **Oath:** any form of attestation or pledge by which a person signifies that he/she is bound in conscience and out of a sense of responsibility to a Supreme Being to the truthfulness of some statement. Willingly swearing to untrue statements constitutes perjury.
52. **Original Document:** for purposes of performing a notarial act (over a paper document), an original document is one that contains the signer's wet-ink signature (see Original Signature) or that will be signed by the signer in the presence of the notary. An original electronic document is that to which the signer has affixed his/her electronic signature.
53. **Original Signature:** a signature subscribed (signed) directly onto the (paper) document in ink (wet-ink) by the person who is named on the document. In contrast, a faxed document that already displays a signature does not display an original signature, since the signature on the faxed document is a facsimile. An original electronic signature is an electronic sound, symbol or process that is affixed to an electronic document by the signer, with the intent of executing the document.
54. **Perjury:** making a false statement under oath or affirmation. Perjury is a crime punishable by a fine and/or prison term.
55. **Personally Known:** refers to knowing a person for a period of time and under circumstances which leave you no doubt as to that person's true identity.
56. **Power of Attorney (POA):** a document authorizing a person to act as another's agent or representative. (see Attorney-in-Fact above and Principal below)
57. **Principal:** the person who signs the power of attorney to allow the attorney-in-fact to have certain powers to act on behalf of the principal.
58. **Proof:** a declaration made by a subscribing witness usually stating that he/she witnessed the signature of the signer of the document.
59. **Protest:** a formal declaration made by a notary declaring a default in payment on a promissory note.
60. **Reasonable Care:** the degree of care which a person of ordinary prudence and intelligence would exercise in the same circumstances. Failure to exercise such care is negligence.
61. **Recordable Document:** a document that the recording authority (clerk of the county court, for example) is authorized to record, usually by state statute. Certified copies of a recordable document may not be made by a notary public. A certified copy of a recordable document must be obtained from the recording authority.
62. **Representative Capacity:** having the authority to act for and on behalf of a person, corporation, partnership, trust, or other entity as:
- An authorized officer, agent, or partner;
  - A public officer, personal representative, or guardian;
  - An attorney-in-fact for a principal;
  - An authorized representative or in any other capacity recited in the instrument.

63. **S.S. (scilicet):** “to wit, namely” in Latin. Archaic term generally used to indicate the exact location of the performance of a notarial act. “S.S.” is usually found near the venue (see below) on a notarial certificate.
64. **Statute:** a law established by legislation.
65. **Statute of Limitations:** a law that sets a time limit on initiating criminal prosecution or a civil action.
66. **Subpoena:** a writ that compels a person to testify in a proceeding.
67. **Subscribe:** to place one’s signature on a document, either as the signer of the document or as a witness to the signer’s signature.
68. **Swear:** to take an oath.
69. **Testator:** the person making a will.
70. **Venue:** the location where the notarial act takes place, usually stated in the following format at the beginning of the notarial certificate:
- State of \_\_\_\_\_  
County of \_\_\_\_\_
71. **Vital Record:** an original document held by a state agency (or sometimes also held by the county of record) having to do with the birth, marriage, divorce, or death of an individual. Some states will include adoption documents and codicils made to correct mistakes on an original record as vital records. A certified copy of a vital record must be obtained from the agency that holds the original vital record. A notary may not certify a copy of a vital record.
72. **Will:** an instrument by which a person makes a disposition of his or her property to take effect after his or her death.
73. **Witness:** to observe the execution of, as that of an instrument, or to sign one’s name to an instrument, to authenticate it (attest it).