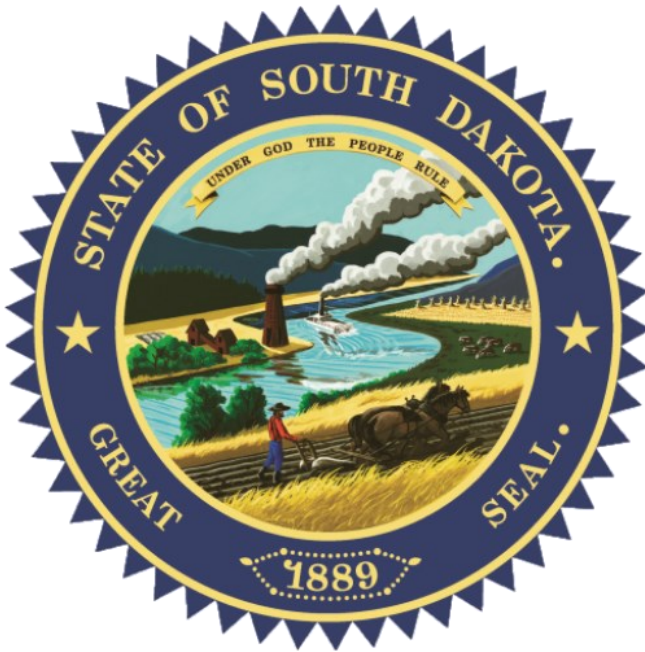


South Dakota Notary Public Handbook

(SDCL 18-1)



Courtesy of the South Dakota Secretary of State

From the Office of the Secretary of State

The origins of the notary public trace back to the days of the Roman Republic. Today, the position remains important in our republic.

As the overseer of the notary seal for South Dakota, our office produces this reference handbook for notaries in this State. This handbook contains South Dakota's notary statutes, definitions of terms commonly used in performing notarial acts, and the procedures for becoming a notary public in South Dakota. Referencing this booklet will help the notary have a greater understanding of the decisions, responsibilities, and obligations entrusted to each notary public.

The oath of notary public carries a serious obligation. Once appointed and commissioned, a notary public becomes a public officer charged with "special trust and confidence in integrity and ability." To faithfully serve the public, the notary public must be knowledgeable about his or her responsibilities.

If you have any questions or concerns on notaries public or notarial acts in South Dakota, please contact our office at (605) 773-3537 or email NOTARY@state.sd.us.

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Notary Tips

DO:

- ◆ Learn the duties you are authorized to perform
- ◆ Learn the circumstances that may disqualify you from acting
- ◆ Learn what records, if any, you may wish to keep
- ◆ Learn what fees you may charge
- ◆ Keep your official seal or stamp in a safe and secure location

DON'T:

- ◆ Attempt to draft legal documents for your clients
- ◆ Notarize a blank or incomplete instrument
- ◆ Notarize a document that has already been signed
- ◆ Permit others to use your official seal or stamp
- ◆ Place the words “My Commission Expires” inside the border of your seal

Components Required for Complete Notarization

1. **Original signature of individual executing the document** - The notary public must witness this signature.
2. **Date of the original signature** - The document must have the date (day, month, and year) the original signature was executed.
3. **Notarization of the document** - The notary public must place his or her original signature on the document.
4. **Affix Notary Public Seal** - The imprint of the seal must be approved by the Office of the Secretary of State before use. The seal imprint must be legible.
5. **Commission Expiration Date** - The words “My Commission Expires” and the commission expiration date must be written, printed or stamped on the document. The words “My Commission Expires” may NOT be inside the border of the seal. The commission expiration date must include the Month, Day, and Year. The commission expiration date must be the date on the Notary Public Commission Certificate issued by the Office of the Secretary of State. SDCL 18-1-4 requires the Notary Public Certificate be displayed for public inspection. A notary public who is renewing his or her notary commission must use the current commission expiration date until that date of expiration. Afterward, the notary may start using the new notary expiration date as reflected on the new Notary Public Commission Certificate.

8 Concepts to Remember

1. **A notary should never notarize a signature not made in the notary's presence, unless done remotely in compliance with SDCL 18-1-11.1!** This is the most important rule to protect a notary from legal liability.
2. A notary may serve any person who makes a lawful and reasonable request for a notarization.
3. A notary serves as an impartial witness to a transaction.
4. A notarization does not prove truthfulness of the contents of a document nor validate a document, rendering it legal.
5. A notarization provides verification of a document signer's willingness to sign, his or her competence to sign, and that the signer is, indeed, the person identified by the signature.
6. If a notary has any doubt about a signer's identity, it is best not to notarize that signature.
7. Notaries are encouraged to utilize a "credible witness" when in doubt about a person's identity. A "credible witness" is any person who personally knows the signer of a document. The notary should likewise personally know the credible witness. The credible witness may, under oath from the notary, attest to the identity of the document signer. Remember, the credible witness should be impartial to the transaction being notarized.
8. When it comes to notarizing your own signature you need to keep in mind SDCL 18-1-12.2. It is a Class 1 misdemeanor for a person to affix a signature to a document as a notary public when the person has also signed the document as a party to the transaction proceeding.

Record Keeping

South Dakota law no longer requires a register or journal be kept by a notary, but it may be to your advantage to keep careful records. Many lawsuits against notaries may have been avoided if the notary kept a record. A register may include:

- Date and time of notarization or acknowledgment
- Type of document being notarized or acknowledged
- Name and address of party requesting services
- Have the party sign the register

Other details may include land description, type of identification presented, number of pages to document, etc. The notary journal or register serves as an excellent form of legal protection for the notary for two important reasons:

1. If a notarization certificate is lost or damaged, a notary may refer to the entry to verify prior existence and purpose.
2. If a notary is called upon to testify in a legal proceeding regarding a notarization, the journal provides a reminder of the facts and circumstances.

The notary journal or register and official seal or stamp should always be kept in a safe and secure place.

Glossary of Terms

ACKNOWLEDGMENT—An acknowledgment is the act of one who has executed an instrument in going before a notary or other official authorized to take the acknowledgment and declaring that they have executed (signed) the document.

AFFIDAVIT—An affidavit is a written statement sworn to before an officer authorized to administer an oath. A person “makes” an affidavit by going before a notary or other officer and swearing to the contents of a written document. A notary “takes” an affidavit by administering the oath and completing the certificate.

AFFIRMATION—A person who objects to swearing may make an affirmation. In such case, the notary would ask, “Do you solemnly and sincerely affirm under the penalties of perjury that the statements contained in this affidavit are true?” The notary would change the jurat to show that the affiant affirmed rather than swore.

AFFIANT—The person who is making the affidavit.

JURAT—A notary’s certificate on an affidavit is called a jurat.

Illustration of a General Acknowledgment

AN ACKNOWLEDGMENT – In a typical general acknowledgment ceremony the notary examines the document, declaration, or avowal of one’s act or of a fact to give it legal validity. The document, declaration, or avowal is signed in the presence of the notary. “Do you acknowledge the execution of this (name the document, deed, mortgage, etc.) to be your free act and deed?” The acknowledger says, “Yes,” and the notary completes the certificate.

On this ____ day of _____, in the year ____, before me personally appeared _____, known to me (or proved to me on the oath of _____) to be the person who is described in, and who executed the within instrument and acknowledged to me that he (or they) executed the same.

It is important that in connection with an acknowledgment that the notary identifies the person making the acknowledgment. Failure to do so could result in financial loss to someone who relied on the notary’s certificate. It could also result in an effort on the individual’s part to recover his loss from the notary. These cases could involve impersonation or forgery or both. The crucial question then becomes “what degree of care was exercised by the notary to ascertain the identity of the person making the acknowledgment.” A driver’s license might be used to identify the acknowledger. The notary must be certain that the acknowledger is who he purports to be. A notary is a public officer and a great deal of faith and confidence is placed in his or her official acts.

Illustration of an Affidavit

There are three things necessary for a valid affidavit, and all three must be present at the same time: (1) the affiant, (2) the notary, and (3) the document. The affiant must swear to and sign the affidavit in the presence of the notary. These three elements of a properly made affidavit are embodied in the notary's jurat which reads:

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 20____.

IDENTITY OF AFFIANT – In most states it is not necessary for a notary to request identification of a person making an affidavit because he does not vouch for his identity in any way. The notary's certificate merely says that the document was "sworn to" on a specified date. However, there is nothing wrong with asking for identification, and it might in fact be a good idea to do so. Properly, an affidavit should be taken in the following manner: the notary and the affiant should stand facing each other with raised right hand and the notary should then say, "Do you solemnly swear that the statements contained in this affidavit are the truth, so help you, God?" However, the essential thing is that the affiant be made to realize that he or she is taking an oath. This fact should be impressed upon the affiant.

Illustration of an Affidavit (Continued)

NOTARY A PARTY – AFFIDAVIT – Obviously a notary cannot appear before himself or take his own affidavit. While it is not illegal for a notary to take a relative’s affidavit, it is not advisable to do so. If the subject matter is something that would benefit the notary or a relative, it is not considered a good business practice. Still it is not illegal for a notary to witness the signatures of close friends and relatives. There are, however, federal and state courts which do have special rules governing the taking of depositions for use in court.

South Dakota law makes it a Class 2 misdemeanor for any notary public to affix his official signature to documents executed when the parties have not appeared before him unless, in accordance with SDCL 18-1-11.1. Furthermore, it could well be the unwitting notarization of a forgery, notarization of the signature of a deceased person, or other such irregularity.

It is also good to remember that there are times when a notary may be called upon to appear in court to testify as to the validity of a signature he has witnessed and notarized.

Frequently Asked Questions

1. What is Errors and Omissions Insurance?

Notaries may choose to buy Errors and Omissions Insurance (E&O) for the exclusive protection provided against claims of negligence and unintentional mistakes made while performing notarial acts.

2. May a South Dakota notary notarize in another state?

No, South Dakota notaries may only notarize within the state of South Dakota.

3. What type of identification is sufficient when notarizing?

- A. Driver's license or non-driver identification card;
- B. U.S. Passport;
- C. An identification card issued by any branch of U.S. Armed Forces; OR
- D. Identification card issued by U.S. Immigration and Naturalization Service, such as a Resident Alien card (sometimes referred to as a "green card")

4. What if my Notary Seal is lost or stolen?

If your notary seal is lost or stolen, report the loss or theft immediately to the Office of the Secretary of State so that a notation can be made in our records regarding the seal. There are two options available to a Notary whose seal has been lost or stolen:

- A. The notary may continue to use their Notary Commission and have a new seal made. The seal can be identical to the original or it may be a different type. The new seal impression would have to be recorded with the Office of the Secretary of State.

More Frequently Asked Questions

- B. The Notary may request that the Secretary of State cancel their present Notary Commission and ask that a new commission with a different expiration date be issued. The Notary would have to follow the Notary Public application procedure.

In addition to whatever option is taken, the Notary may also wish to change the name on their Notary Commission and Seal.

(Example: Elizabeth B. Jackson may be changed to Elizabeth Jackson or E.B. Jackson or Liz B. Jackson). The new impression of the Notary's Seal would have to correspond exactly to the way the name is signed and recorded with the Office of the Secretary of State.

5. Will information about my being a Notary be public?

Yes. South Dakota Codified Law (SDCL) 18-1-4 expressly states that "The Secretary of State shall keep in his office a record of such appointments and the date of their expiration. South Dakota open record statutes under SDCL chapter 1-27 presume a record is open, unless otherwise designated as closed. There is no exemption for notary public information, including name or address. Please be aware that the address disclosed on your Notary Application Oath and Bond will be in the public domain and will be available for public view on the Secretary of State's Office website.

6. What about the Commission Date and Expiration Date?

The commission date takes effect on the day the Secretary of State makes the appointment and issues the commission. The expiration date is exactly six (6) years from the commission date.

More Frequently Asked Questions

The commission expires at 11:59 P.M. central time on the day of expiration. A Notary Public may choose to purchase a “My Commission Expires” date stamp, that may be purchased at an office supply store in your area.

7. What if my name changes?

There are three options available to someone who changes his or her name during the term of the Notary Public Commission:

- A. Continue to use the Notary Commission as it was issued. The Notary would continue to sign their name using the surname on the commission.
- B. Continue to use the Notary Commission as it was issued and, at their option, add to the signature an appropriate notation such as “presently” or “now” and the new name. (Example: Sally Smith, presently Sally Jones).
- C. Change the name on the Notary Commission. If this option is selected, request a “Notary Public Request to Change Record” form from the Office of the Secretary of State. The Notary must purchase a new seal and place the imprint on the form. After this has been submitted to the Secretary of State, a Notary Public Name Change Certificate will be issued without any additional filing fee.

8. What if I move?

A Notary Public commission is good in any county in South Dakota regardless of the county for which it was issued.

However, please notify the Office of the Secretary of State of any change in address so that a notation may be made in the notary public records. If you move out-of-state and are no longer a South Dakota resident, your commission is invalid.

More Frequently Asked Questions

Please inform the Secretary of State's Office in this instance with the effective date of your resignation and destroy your notary seal.

9. How do I renew my Notary Public Commission?

If you wish to renew your Notary Public commission and desire to keep the same commission date and expiration date (month and day), you may do so by completing and mailing to the Office of the Secretary of State the Application, Oath and Bond form in advance of the expiration of the commission. If you desire a different expiration date than your previous commission, please indicate the new date you wish to have your next six year term begin. Once again, our office must receive the application prior to your commission expiration date or the date you have selected.

To obtain a Notary Application, Oath and Bond form, contact the Office of the Secretary of State, 500 East Capitol Avenue, Pierre, SD 57501 at (605)773-3537, via email at NOTARY@state.sd.us, or by website at www.sdsos.gov. Please complete the application fully and correctly the first time, so that it need not be returned to you for additional information or correction. Please use a computer or print legibly in ink when completing the form. Upon completion of the Notary Application, Oath and Bond form, it should be submitted to the Office of the Secretary of State with the \$30.00 filing fee, payable to the Secretary of State.

10. What about the Notary Seal?

A Notary Seal may be purchased at an office supply company, stationery store, or a print shop. There are two types of seals that are generally available for purchase—the embossing seal and the rubber stamp. Either one of these stamps is acceptable as a notary seal.

Frequently Asked Questions (Continued)

The seal must contain:

- Applicant's name
- The words "Notary Public" and "South Dakota"
- A border surrounding the imprint
- If a rubber stamp is used, the word "Seal" must be included on the stamp
- The words "My Commission Expires" are NOT to be inside the border of the seal

A notary must write, print, or use a separate stamp imprint with the words "My commission expires" and the expiration date. If the words are printed on the form, the notary need not duplicate them.

The official notary seal imprint on your Application, Oath and Bond is the only Seal imprint to be used when notarizing documents. If you find it necessary to have a different type of notary seal, you must first submit an imprint to our office before using a different notary seal.

It is absolutely necessary that the imprint of the applicant's Notary Seal be included on the Application, Oath and Bond form when it is submitted to the Office of the Secretary of State.

11. What about remote notarization? Is electronic notarization allowed in South Dakota?

In the 2019 South Dakota Legislative Session, HB 1272 providing for remote notarization was passed and signed by the Governor. South Dakota now allows remote notarization in specific circumstances outlined in SDCL 18-1-11.1. Electronic or online notarization continues to not be permitted under South Dakota law.

Selected South Dakota Codified Law

Sections on Notarization

Uniform Acknowledgment Law

SDCL 18–5–1 to 18–5–18, inclusive

These sections refers to various types of acknowledgments under South Dakota Codified Law. This section of the code can be viewed at www.sdlegislature.gov or you may view or have copies made of these statutes at a public library, courthouse, or by contacting the Secretary of State’s Office.

SDCL Chapter 18-1 - Notary Public

18–1–1. Appointment by Secretary of State–Term of office–Application Procedure–Authority.

The secretary of state shall appoint notaries public, who have residence in this state as defined in § 12-1-4. A notary public shall hold office for six years unless sooner removed by the secretary of state. An applicant to become a notary public shall complete an application form as prescribed by the secretary of state pursuant to chapter 1-26. The applicant shall submit a fee of thirty dollars. The application shall include the applicant’s name, street, city, state, zip code, county, and date of birth. The applicant shall apply in the same name as that which will appear as the seal imprint. Each notary may, anywhere in this state, administer oaths and perform all other duties required by law. The secretary of state may not appoint as a notary public any person who has been convicted of a felony. The secretary of state may also appoint an applicant as a notary public if the applicant resides in a county bordering South Dakota and the applicant’s place of work or business is within the State of South Dakota.

South Dakota Law Continued

18-1-1.1. Definitions. Terms in this chapter mean:

(1) "Acknowledgment," a declaration by a person before a notarial officer that the person has signed a document for the purpose stated in the document and, if the document is signed by a representative who is:

(a) An authorized officer, agent, partner, trustee, or other representative of a person other than a natural person;

(b) A public officer, personal representative, guardian, or other representative in the capacity stated in a document;

(c) An attorney-in-fact for a natural person; or

(d) An authorized representative of another person in any other capacity, that the representative signed the document with proper authority and signed it as the act of the person identified in the document;

(2) "Communication technology," an electronic device or process that allows a notarial officer and a person not in the physical presence of the notarial officer to communicate with each other simultaneously by sight and sound;

(3) "Notarial act," an act that a notarial officer may perform under the laws of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument;

(4) "Notarial officer," a notary public or other person authorized to perform a notarial act;

(5) "Verification on oath or affirmation," a declaration, made by a person on oath or affirmation before a notarial officer, that a statement in a document is true.

South Dakota Law Continued

18-1-2. Oath and bond of notary.

Each notary public, before performing the duties of the office, shall take an oath as required by § 3-1-5, and shall give a bond to this state, to be approved by the attorney general, in the penal sum of five thousand dollars, conditioned for the faithful discharge of the duties of the office.

A seal may be a rubber stamp or a physical device capable of affixing to or embossing on a tangible document. A rubber stamp seal shall contain the word, seal.

A notarial officer shall indicate the date on which the notarial officer's commission expires below the seal under this section.

18-1-3. Seal, oath, and bond filed with secretary of state.

Every notary public before entering upon the duties of his office, shall provide an official seal and file an impression of the same, together with his oath and bond, in the Office of the Secretary of State.

18-1-3.1. Requirements of seal--Commission expiration date required below seal.

A notarial officer shall have a seal that shall be used for the purpose of acknowledging a document. The seal shall be of a type approved by the secretary of state and shall contain at least:

- (1) The notarial officer's name;
- (2) The words, South Dakota;
- (3) The words, notary public; and
- (4) A border surrounding the imprint.

A seal may be a rubber stamp or a physical device capable of affixing to or embossing on a tangible document. A rubber stamp seal shall contain the word, seal.

A notarial officer shall indicate the date on which the notarial officer's commission expires below the seal under this section.

South Dakota Law Continued

18-1-4. Issuance of commission-Posting-Records maintained by Secretary of State.

The Secretary of State shall issue a commission to each notary public which shall be posted in a conspicuous place in the notary's office for public inspection. The Secretary of State shall keep in his office a record of such appointments and the date of their expiration.

18-1-5, 18-1-6. Repealed.

18-1-7. Notarial acts of interested person or agent valid if not principal party to instrument.

A person who is personally interested directly or indirectly, or as a stockholder, officer, agent, attorney, or employee of any other person or party to a transaction concerning which the person is performing the function of a notary public, may make any certificate, take any acknowledgment, administer any oath, or do any other official act as a notary public with the same legal force and effect as if the person had no interest, provided the instrument or document does not show upon its face that the person is a principal party to the instrument or document.

18-1-8. Repealed.

18-1-9. Fee chargeable by notary.

Notaries public may charge and receive a fee not to exceed ten dollars for each instrument notarized, except that no notary public may charge a fee for notarizing a request for an absentee ballot.

18-1-10. Faith and credit to notarial acts.

Full faith and credit shall be given to all the protestations, attestations, and other instruments of publication, of all notaries public now in office or hereafter to be appointed under the provisions of this chapter.

South Dakota Law Continued

18–1–11. Affixing official signature without appearance by parties as misdemeanor.

A person is guilty of a Class 2 misdemeanor if the person is a notarial officer who affixes the person's official signature to any document when the parties to the transaction memorialized in the document have not appeared before the person either in-person or in accordance with § 18-1-11.1.

18-1-11.1. Notarial act permitted when person appears by means of communication technology--Requirements.

A notarial officer in this state, while located in this state, may perform by means of communication technology a notarial act executed on a document by a person who appears before, but is not in the physical presence of the notarial officer if the notarial officer:

- (1) Has personal knowledge of the identity of a person through dealings sufficient to provide reasonable certainty that the person has the identity being claimed;
- (2) Affixes the notarial officer's signature to the original tangible document executed by the person;
- (3) Indicates in the notarial certificate the remote location of the person executing the document;
- (4) Indicates in the notarial certificate that the notarial act involved a statement made or a signature executed by a person not in the physical presence of the notarial officer, but appearing by means of communication technology; and
- (5) Is able reasonably to confirm that the document before the notarial officer is the same document in which the person made the statement or on which the person executed a signature.

South Dakota Law Continued

18–1–12. Acting after expiration of term or disqualification as misdemeanor.

It is a Class 2 misdemeanor for any notary public to exercise the duties of his office after the expiration of his commission or when he is otherwise disqualified.

18–1–12.1. Performing notarial act without as misdemeanor.

A person is guilty of a Class 1 misdemeanor if the person performs a notarial act on any document without first obtaining a commission from the secretary of state under § 18-1-4.

18–1–12.2. Party to transaction as notary public prohibited.

It is a Class 1 misdemeanor for a person to affix a signature to a document as a notary public when the person has also signed the document as a party to the transaction proceeding.

18–1–13. Removal of notary from office for violation.

Any notary public who is convicted of committing an act which is designated as a misdemeanor in this chapter or any felony shall be removed from office by the Secretary of State.

18–1–14. Notice to notary of revocation of commission.

Should the commission of any notary public be revoked, the Secretary of State shall immediately notify such person by mail.

18-1-15 to 18-1-17. Repealed

2019 Session Laws (HB 1272)

CHAPTER 100

Electronic and remote notarization.

AN ACT

ENTITLED, An Act to provide for remote notarization.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1.

That chapter 18-1 be amended by adding a NEW SECTION to read:

Terms in this Act mean:

- (1) "Acknowledgment," a declaration by a person before a notarial officer that the person has signed a document for the purpose stated in the document and, if the document is signed by a representative who is:
 - (a) An authorized officer, agent, partner, trustee, or other representative of a person other than a natural person;
 - (b) A public officer, personal representative, guardian, or other representative in the capacity stated in a document;
 - (c) An attorney-in-fact for a natural person; or
 - (d) An authorized representative of another person in any other capacity, that the representative signed the document with proper authority and signed it as the act of the person identified in the document;
- (2) "Communication technology," an electronic device or process that allows a notarial officer and a person not in the physical presence of the notarial officer to communicate with each other simultaneously by sight and sound;

2019 Session Laws Continued

- (3) "Notarial act," an act that a notarial officer may perform under the laws of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument;
- (4) "Notarial officer," a notary public or other person authorized to perform a notarial act;
- (5) "Verification on oath or affirmation," a declaration, made by a person on oath or affirmation before a notarial officer, that a statement in a document is true.

Section 2.

That chapter 18-1 be amended by adding a NEW SECTION to read:

A notarial officer in this state, while located in this state, may perform by means of communication technology a notarial act executed on a document by a person who appears before, but is not in the physical presence of the notarial officer if the notarial officer:

- (1) Has personal knowledge of the identity of a person through dealings sufficient to provide reasonable certainty that the person has the identity being claimed;
- (2) Affixes the notarial officer's signature to the original tangible document executed by the person;
- (3) Indicates in the notarial certificate the remote location of the person executing the document;
- (4) Indicates in the notarial certificate that the notarial act involved a statement made or a signature executed by a person not in the physical presence of the notarial officer, but appearing by means of communication technology; and

2019 Session Laws Continued

- (5) Is able reasonably to confirm that the document before the notarial officer is the same document in which the person made the statement or on which the person executed a signature.

Section 3.

That § 18-1-3.1 be amended to read:

18-1-3.1. A notarial officer shall have a seal that shall be used for the purpose of acknowledging a document. The seal shall be of a type approved by the secretary of state and shall contain at least:

- (1) The notarial officer's name;
- (2) The words, South Dakota;
- (3) The words, notary public; and
- (4) A border surrounding the imprint.

A seal may be a rubber stamp or a physical device capable of affixing to or embossing on a tangible document. A rubber stamp seal shall contain the word, seal.

A notarial officer shall indicate the date on which the notarial officer's commission expires below the seal under this section.

Section 4.

That § 18-1-7 be amended to read:

18-1-7. A person who is personally interested directly or indirectly, or as a stockholder, officer, agent, attorney, or employee of any other person or party to a transaction concerning which the person is performing the function of a notary public, may make any certificate, take any acknowledgment, administer any oath, or do any other official act as a notary public with the same legal force and effect as if the person had no interest, provided the instrument or document does not show upon its face that the person is a principal party to the instrument or document.

2019 Session Laws Continued

Section 5.

That § 18-1-11 be amended to read:

18-1-11. A person is guilty of a Class 2 misdemeanor if the person is a notarial officer who affixes the person's official signature to any document when the parties to the transaction memorialized in the document have not appeared before the person either in-person or in accordance with section 2 of this Act.

Section 6.

That § 18-1-12.1 be amended to read:

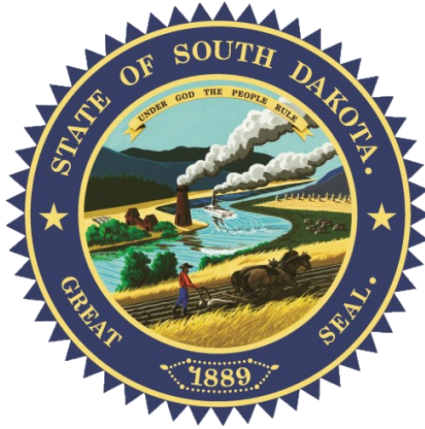
18-1-12.1. A person is guilty of a Class 1 misdemeanor if the person performs a notarial act on any document without first obtaining a commission from the secretary of state under § 18-1-4.

Section 7.

That § 18-4-10 be amended to read:

18-4-10. The acknowledgment of an instrument performed in the presence of a person making the acknowledgment must not be taken unless the officer taking it knows or has satisfactory evidence on the oath or affirmation of a credible witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument; or, if executed by a corporation, that the person making such acknowledgment is an officer of the corporation authorized to execute the instrument.

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