



Alison Lundergan Grimes
Secretary of State

September 2019: Updates from the Secretary of State

Notary Public Updates

www.sos.ky.gov

facebook.com/kysecretaryofstate

@KYSecofState





- Whether conducting a closing or casting a ballot, technology is transforming our daily lives.
- Briefing will review updates to Kentucky law and groundbreaking technology that impacts every lawyer in the Commonwealth.



Technology in Business



NOTARY PUBLIC

One who is authorized by the state or federal government to administer oaths, and to attest to the authenticity of signatures.

NOTARIAL ACTS

- Acts which the laws of Kentucky authorize a notary to perform.
- Administering oaths and affirmations.
- Taking proof of execution and acknowledgments of instruments.
- Attesting documents.



State At-Large

- Appointed by the Secretary of State.
- Resident or non-resident employed in Kentucky.
- 4 year term.
- Applications approved by the circuit judge, circuit clerk, county judge/executive, county clerk, justice of the peace, or a member of the General Assembly of the county where the applicant resides or is employed.
- 18 years of age.
- Good moral character.
- A notary must “give an obligation with good security” (KRS 423.010)
- May act in any county of the state where the notary has filed a signature and certification of the county clerk of the county of appointment. (KRS 423.020)

Special Commission

- Resident or non-resident.
- Appointed by the Governor.
- Authorized to perform notarial acts in or outside Kentucky with regard to writings prepared for recordation Kentucky.



Recognition of Foreign Notarial Acts

Notarial acts may be performed outside Kentucky for use in Kentucky with the same effect as if performed by notary public of this state if:

- A notary public authorized in the place where the act is performed.
- A judge, clerk, or deputy clerk of any court of record in the place where the act is performed.
- An officer of the foreign service of the United States, a consular agent, or other person authorized by the United States Department of State to perform notarial acts in the place where the act is performed.
- A commissioned officer in active service with U.S. Armed Forces and any other person authorized by the Armed Forces to perform notarial acts *if* the act is performed for a merchant seaman, member of the U.S. Armed Forces, persons serving with or accompanying U.S. Armed Forces, or the dependents of those persons.
- Any other person authorized to perform notarial acts in the place where the act is performed; or
- Kentucky Special Commission Notaries.



Notarization & “Why do we care?”

“Notarization helps provide confidence that transaction documents are actually signed by the persons named in the documents.” <https://www.mba.org/>

“State, federal and bankruptcy courts have invalidated mortgages and other documents due to defective notarizations.” www.oldrepublictitle.com



Number of Notaries

- 4.5 million notaries public in the U.S.
- During Secretary Grimes' tenure, Kentucky has processed over 160K notary applications.
- In 2018, the office processed 21K applications for Notary State-At-Large.
- Currently, Kentucky has approximately 82K notaries commissioned by the Secretary of State.



Updates to Kentucky Notary Law

- As digital technology evolves, the Uniform Law Commission (ULC) and others are reconsidering the long-held notarial principle that “personal appearance” requires physical presence.
- Several jurisdictions now allow for a person to appear before a notary using audio/video applications, also known as remote notarization.



Uniform Law Commission Amendment to Notarial Acts

- **Changes:** The 2018 Amendment to Revised Uniform Law on Notarial Acts (“RULONA”) authorizes notaries public to perform notarial acts in the state in which they are commissioned for remotely located individuals using audio-visual communication technology regardless of where the signing individual may be located.
- **Purpose:** This amendment was prepared in response to a rapidly emerging trend among the states to authorize the performance of notarial acts by means of audio-visual technology.



Types of Notarization

(1) Traditional Notarization

- Physical Presence
- Wet Signatures
- Wet Notarization

(2) Electronic Notarization

- Physical Presence
- Digital Signature
- Digital Notarization

(3) Remote Notarization

- Live Video Presence
- Digital Signature
- Digital Notarization



Is Remote Notarization the Same as Electronic Notarization?

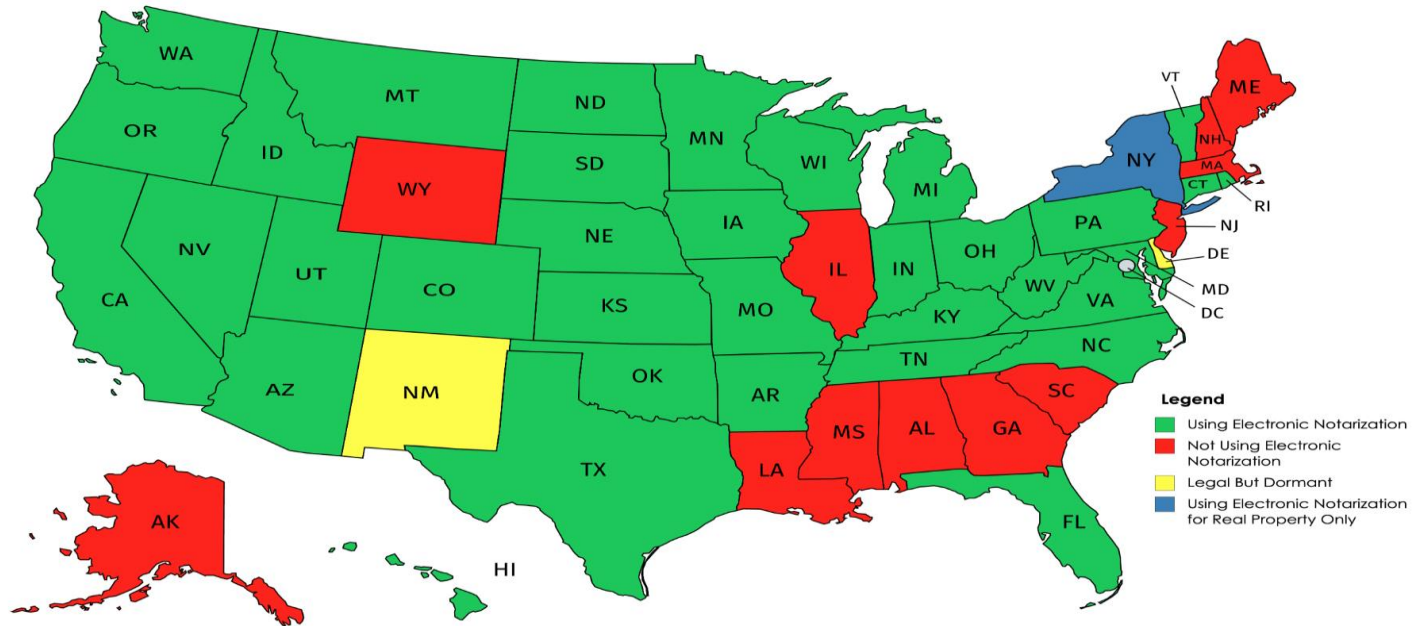
- No.
- Many people confuse electronic notarization with remote notarization, believing they are the same. They are not.
- Electronic notarization, or eNotarization, involves documents that are notarized in electronic form, and the Notary and document signer sign with an electronic signature. But all other elements of a traditional, paper notarization apply to electronic notarization, including the requirement for the signer to physically appear before the Notary.



	Presence	Signature	Notarial Act
Traditional Notarization	Physical Presence	Wet	Wet
Electronic Notarization	Physical Presence	Digital	Digital
Remote Notarization	Audio Visual Communication	Digital	Digital



Electronic Notarization By State



Kentucky Secretary of State
Alison Lundergan Grimes

*As of June 2019



Remote Notarization Defined

“With remote notarization, a signer personally appears before the Notary at the time of the notarization using audio-visual technology over the internet instead of being physically present in the same room. Remote notarization is also called webcam notarization or online [remote] notarization.”

www.nationalnotary.org



What is a remote notary exactly?

- A remote or online notary is a legally commissioned notary public authorized to conduct notarizations over the internet via digital tools and a live audio video call.
- All notaries, no matter how they perform their service, must watch as someone signs a document. Historically, this has required that the notary and signer travel to meet one another in-person where the notary serves as a witness during the signing event.
- Changes in the law have enabled electronic and remote notarizations and created the concept of a Remote Notary.



NASS Remote Notarization Task Force

In April 2016, NASS created a **Task Force** to promote a greater understanding of the issues and policies surrounding remote/video notarizations amongst states. The task force reviews technologies that facilitate remote notarizations, tracks state activity and develops proposals for NASS consideration.

Goal of Remote Notarization Task Force

“To gather relevant information and help members better understand the remote notarization process”



Members of Task Force

- Co-Chair: **Alison Lundergan Grimes**, Kentucky Secretary of State
- Co-Chair: **Mark Martin**, Arkansas Secretary of State
- Hon. **Connie Lawson**, Indiana Secretary of State
- Hon. **Paul Pate**, Iowa Secretary of State
- Hon. **R. Kyle Ardoin**, Louisiana Secretary of State
- Hon. **Matt Dunlap**, Maine Secretary of State
- Hon. **John Wobensmith**, Maryland Secretary of State
- Hon. **Steve Simon**, Minnesota Secretary of State
- Hon. **Jay Ashcroft**, Missouri Secretary of State
- Hon. **Barbara Cegavske**, Nevada Secretary of State
- Hon. **Elaine Marshall**, North Carolina Secretary of State
- Hon. **Al Jaeger**, North Dakota Secretary of State
- Hon. **Robert Torres**, Pennsylvania Secretary of State
- Hon. **Luis Rivera Marin**, Puerto Rico Secretary of State
- Hon. **Jim Condos**, Vermont Secretary of State



NASS Remote Electronic Notarization Standards

- Protect the credibility of the process;
- Prevent identity fraud; and
- Provide accountability to the public in order to advance secure electronic commerce.



Considerations of Remote Notarization

- Ease of Finding a Notary
- Faster Transactions
 - Military & Overseas Transactions
 - “After Hours” Transactions
- Safety of Individuals & Notary Officers
- Reduced Operating Costs
- More Accurate Transactions



Policy Considerations

- Identity Verification
- Tamper Evident Technology
- Acknowledgements
- Vendor Neutral
- Regulations Promulgated by SOS
- UETA, URPERA, and RULONA
- Consumer's Choice
- Interstate Recognition

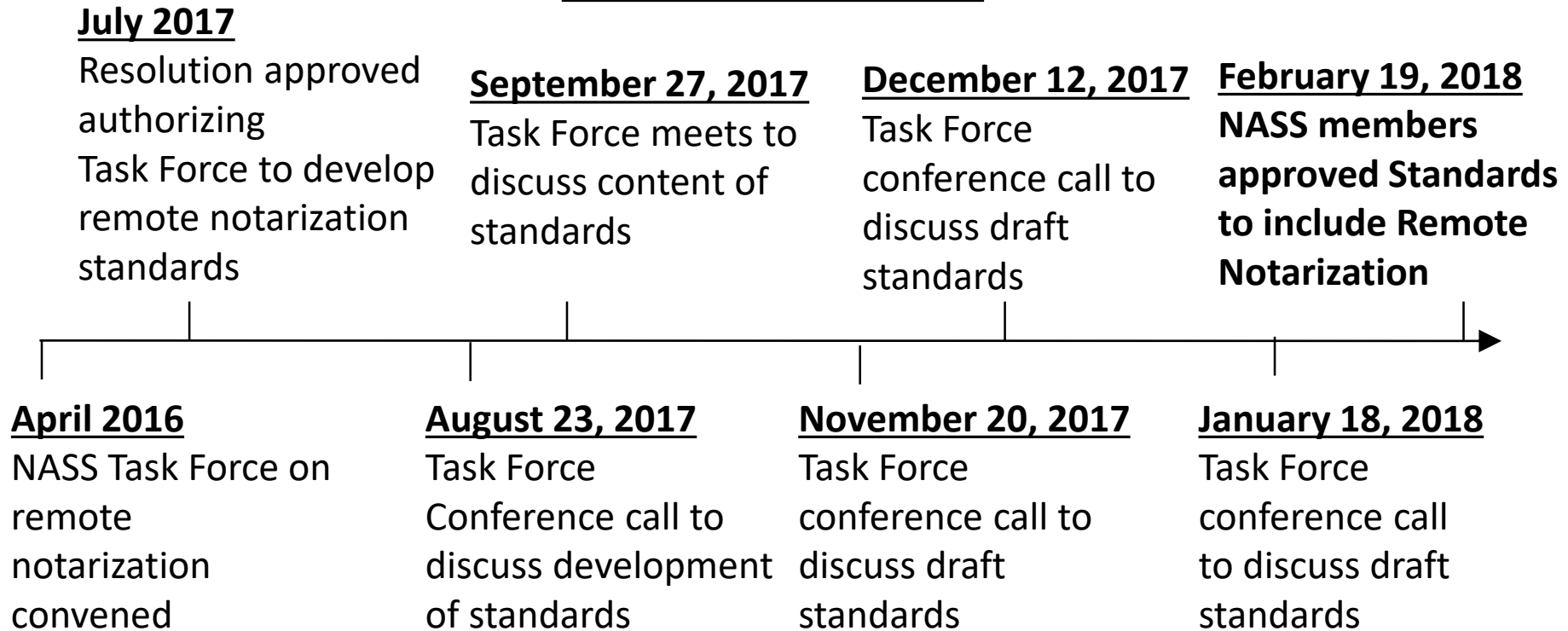


Other Considerations

- Witnesses
- Unauthorized Access
- Repository and Custodian Provisions



Timeline of Work





Status of Remote Notarization

- 22 states authorize remote notarization.
 - Numerous states (including Kentucky) passed legislation in 2019.
 - 8 states passed legislation in 2018
- Various stakeholders such as NASS, MISMO, ALTA, MBA etc. are drafting model standards/legislation because the industry is pushing for this innovation.



Remote Notarization (22)

- Arizona (Effective 7/1/19)
- Florida (Effective 1/1/20)
- Idaho (Effective 1/1/20)
- Indiana (Effective 7/1/19)
- Iowa (Effective 7/1/20)
- Kentucky (Effective 1/1/20)
- Maryland (Effective 10/1/20)
- Michigan
- Minnesota
- Montana (Effective 10/1/19) (SECOND TO ENACT)
- Nebraska (Effective 7/1/20)
- Nevada (THIRD TO ENACT)
- North Dakota
- Ohio (Effective 9/19/19)
- Oklahoma (Effective 1/1/20)
- South Dakota (Effective 7/1/19)
- Tennessee (Effective 7/1/19)
- Texas (THIRD TO ENACT)
- Utah (Effective 11/1/19)
- Vermont (Effective 7/1/19)
- Virginia (FIRST TO ENACT)
- Washington (Effective 10/1/20)

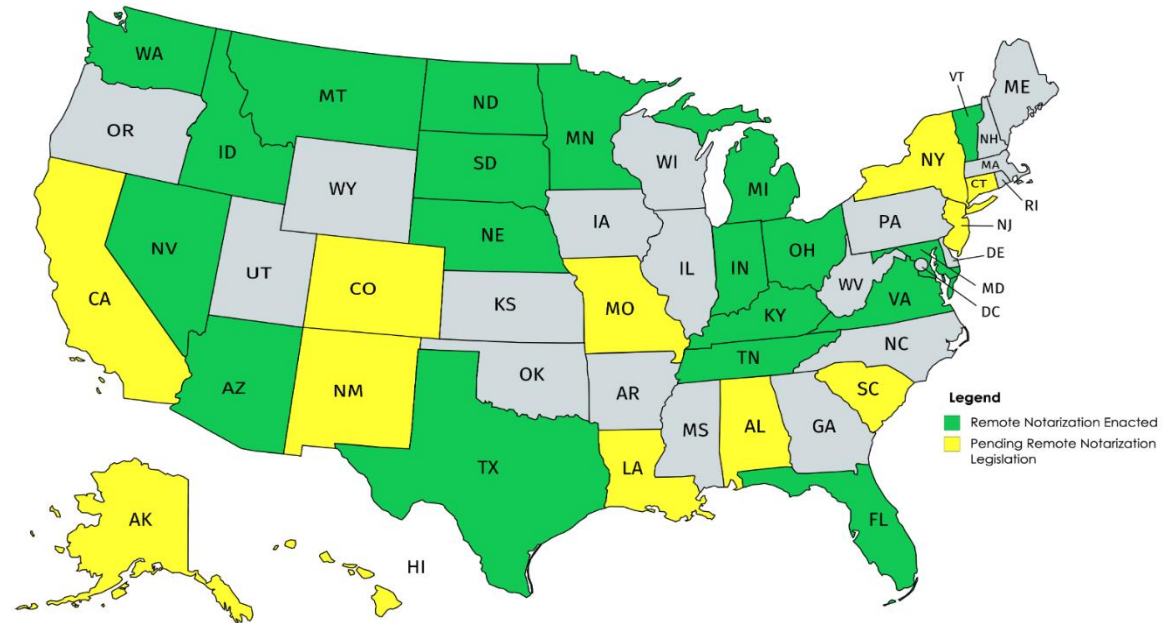


States with Pending Remote Notarization Legislation

- Alabama
- Alaska
- California
- Colorado
- Connecticut
- Hawaii
- Louisiana
- Missouri
- New Jersey
- New Mexico
- New York
- South Carolina



Remote Notarization By State

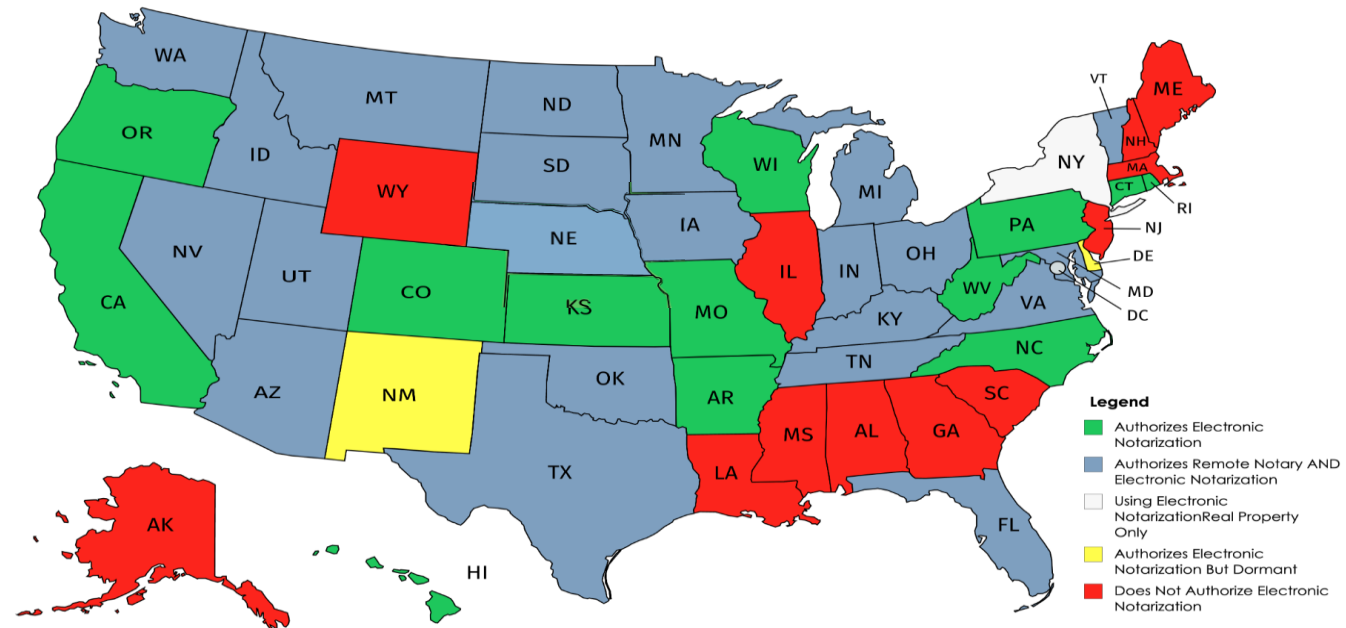


Kentucky Secretary of State
Alison Lundergan Grimes

*As of June 2019



Electronic AND Remote Notarization By State



Kentucky Secretary of State
Alison Lundergan Grimes

*As of June 2019



Kentucky Senate Bill 114 (2019)

Senator Morgan McGarvey

- Authorizes electronic AND remote notarization.
 - Modernizes Kentucky law by adopting the RULONA to harmonize with the Uniform Electronic Transactions Act (UETA) and the Uniform Real Property Electronic Recording Act (URPERA).
- Provides greater security for the notary process and notary technology.
- Provides minimum qualifications for notaries and uniform standards for all notarizations, whether paper or electronic.
- Recognizes valid notarizations from other jurisdictions.
- Allows county clerks to accept electronic records.
- Effective January 1, 2020.



SB 114 Notary Qualifications

- 18 years of age.
- A citizen or permanent legal resident of the United States.
- Reside or be employed in the county where application is made.
- Able to read and write English.
- Not otherwise disqualified.
- Able to obtain the requisite surety bond.
- Comply with all requirements established by the Secretary of State by administrative regulation.



SB 114 Notary Commission

- 4 year term.
- Unique commission number retained upon renewal.
- Within 30 days of receiving a commission the notary must appear in the county clerk's office to take the oath of office, submit a surety bond and file the commission.
- Surety in the amount of \$1,000 issued by a surety or other entity licensed or authorized to do business in Kentucky.
- Authorizes a notary to act in all counties once filed in the county of application.



SB 114 Notarial Acts

- Taking acknowledgements.
- Administering oaths and affirmations.
- Taking verifications of statements on oath or affirmation.
- Certifying that non-official documents are true copies.
- Certifying the deposition of witnesses.
- Making or noting a protest of a negotiable instrument.
- Witness or attesting signatures.
- Performing notarial acts authorized by any other law of the Commonwealth.
- May be performed with respect to tangible and electronic records.
- Certifying that a tangible copy of an electronic record is an accurate copy of an electronic record.



Disqualifications Under SB 114

The Secretary of State may refuse to renew, revoke, suspend or impose a condition on a notary for acts or omissions demonstrating the notary lack the honesty, integrity, competence, or reliability to act as a notary, including:

- Failure to comply with the notary law or administrative regulations.
- Misstatements or omissions in the application.
- Conviction of a felony or crime involving fraud, dishonesty or deceit.
- Findings or admissions by or against the notary in legal or disciplinary proceedings.
- Use of false or misleading advertising or representations.
- Failure to maintain the required notary bond.



SB 114 Implementation

SB 114 authorizes the Secretary of State to issue administrative regulations to:

- Establish the means of performing a notarial act involving communication technology and the process of credential analysis and identity proofing;
- Establish the requirements for providers of notary communication technology;
- Ensure integrity in the creation, transmittal, storage or authentication of electronic records;
- Establishing standards for communication technology and the process of identity proofing; and
- Establish forms and procedures to register electronic and online notaries.



- The Secretary of State is currently developing procedures and administrative regulations to implement SB 114. We need you!
- Contact Erica Galyon, Assistant Secretary of State (502) 564-3490
Erica.Galyon@ky.gov



So how do you prepare for remote notarization?

- Follow the requirements for the state in which the document is being executed.
- So far, every state that authorizes remote notarization except Montana requires notaries to either obtain a separate electronic notary commission or register to perform remote notarizations.




What types of technologies are out there?

- [DocVerify](#)
- [Notarize](#)
- [NotaryCam](#)
- [Pavaso](#)
- [Safedocs](#)
- [SIGNiX](#)

These technologies will provide notaries with all the technology that is needed to perform remote notarization.

Kentucky Online Notary Portal

Kentucky.gov Agencies Services Secretary of State Search



Kentucky Secretary of State Alison Lundergan Grimes

Business Elections Civics OpenBoardsKY Administration Secretary's Desk

Secretary of State / Business / Business Records / Notary Services

- Request Corporate Documents
- Apostilles and Authentications
- Notary Services
- Online Services
- Fees
- Laws
- FAQs
- Apostilles Contact Form

Notaries

A notary public is a public servant appointed by state government to witness the signing of documents and to administer oaths. Notaries public notarize documents to deter fraud and ensure proper execution. To find a notary, use the online [lookup service](#).

Notary Public State at Large

A notary public state at large is a resident or non-resident of Kentucky who is appointed to perform notarial acts within the state of Kentucky, but these documents may be sent to other states for recording. To apply for a Kentucky Notary Public State at Large appointment or reappointment, download the [form](#) and [submit it online](#), or mail it with a \$10.00 fee made payable to Kentucky State Treasurer to:

Notary Commissions
P.O. Box 821
Frankfort, KY 40602-0821

Once the application has been processed by the Secretary of State, your Certificate of Appointment will be sent to the county clerk in the county of application. A written notice will also be sent to you stating that your Certificate of Appointment is in the county clerk's office. Within 30 days of receiving your notice, you must go to the county clerk's office and (1) post bond, (2) take the oath of office, and (3) file and record your commission. Please contact your county clerk with any questions regarding the bonding and oath process.

Notary Public Special Commission

A special commission notary is a resident or non-resident of Kentucky who is appointed by the governor of Kentucky to perform notarial acts inside or outside the state covering documents to be recorded in Kentucky only. To apply for a Notary Public Special Commission appointment, download the [form](#) and return it with a \$10.00 fee made payable to the Kentucky State Treasurer to:

Notary Commissions
P.O. Box 821
Frankfort, KY 40602-0821

Once the application has been processed by the Secretary of State, you will receive a Notice of Appointment and Oath of Office. Pursuant to KRS 62.010, you must take the Oath of Office within 30 days after you receive your Notice of Appointment, the Oath may be administered by any judge, county judge/executive, notary public, clerk of court or justice of the peace (magistrate) in your county. After the Oath has been administered, it should be signed by both the person taking the oath and the person administering it. The Oath must be returned to the Secretary of State within 30 days after the date on the Notice of Appointment letter. Upon receipt of the Oath by the Secretary of State, the Governor will issue the Commission to Office.

Once you have been appointed to the office of Notary Public Special Commission, you should use the following signature format:

"I, _____, a Kentucky Notary Public Special Commission, for acts performed in or outside Kentucky for recordation in Kentucky; my commission expires: _____."

Additional Information

Answers to [frequently asked questions](#) regarding notaries are provided on this website.

For more information about notaries, please contact the Notaries Branch of the Office of the Secretary of State:

- phone: (502) 564-3490
- fax: (502) 564-5687
- email
- mail to: Office of the Secretary of State
Notary Branch
P.O. Box 821
700 Capital Ave., Ste. 158
Frankfort, KY 40601

The Office of the Secretary of State is open Monday through Friday, 8:00 a.m. to 4:30 p.m. EST.

Guidance for Notaries

For more information regarding notaries, review the [Kentucky Notary Public Handbook](#), [Notary Guidelines](#), KRS Chapter 423 (Notaries) and KRS Chapter 62 (Oaths, Bonds and Penalties).

Kentucky Online Notary Portal

The screenshot shows a web browser window displaying the Kentucky Online Notary Portal. The browser's address bar shows the URL `app.sos.ky.gov/notaries/`. The page header includes the **Kentucky.gov** logo and navigation links for **Agencies** and **Services**. Below the header is a banner for the **Kentucky Secretary of State Alison Lundergan Grimes**, featuring her portrait and the state seal. A dark blue navigation bar contains links for **Business**, **Elections**, **Civics**, **OpenBoardsKY**, **Administration**, and **Secretary's Desk**. The breadcrumb trail reads: **Secretary of State / Business / Business Records / Notary Services**. On the left, a dark blue sidebar menu lists: **Request Corporate Documents**, **Apostilles and Authentications**, **Notary Services** (selected), **Online Services**, **Fees**, **Laws**, **FAQs**, and **Apostilles Contact Form**. The main content area contains a welcome message: "Welcome to the Kentucky Secretary of State's Notary Portal. Use the search options below to search Kentucky Notaries from 1996 to present." It also includes a note for County Clerks: "County Clerks Only: To access the [Kentucky County Clerk Notary Portal](#), [click here](#). (Note: To use the County Clerk portal, you must have an account set up with us in order to login.)" Below this is a search section with the text "Enter your search criteria below." and a "County:" dropdown menu set to "Adair County". There is an empty "ID/Name Contains:" text input field. At the bottom of the search section are "Search" and "Reset Search" buttons, and a note: "Note: For other options, click [Advanced Search](#)." The footer contains links for **Contact**, **Site Map**, **Privacy**, **Security**, **Disclaimer**, and **Accessibility**.

Kentucky County Clerk Notary Portal

The screenshot shows a web browser window displaying the Kentucky Secretary of State Notary Portal. The browser address bar shows the URL `app.sos.ky.gov/notaries/ViewRecords.aspx`. The page header includes the Kentucky.gov logo and navigation links for Agencies and Services. A banner features the Kentucky Secretary of State Alison Lundergan Grimes. Below the banner is a navigation menu with options: Business, Elections, Civics, OpenBoardsKY, Administration, and Secretary's Desk. The breadcrumb trail reads: Secretary of State / Business / Business Records / Notary Services. A left sidebar menu lists: Request Corporate Documents, Apostilles and Authentications, Notary Services (selected), Online Services, Fees, Laws, FAQs, and Apostilles Contact Form. The main content area includes links for Search, Settings, Log Out, and User Manager. A heading reads "Adair County Clerk | Welcome Johnna Ballinger". Below this is a search instruction: "Enter your search criteria below. By default, only the last three months of records for this county are searched." The search criteria are: "Any Date Field Between: 9/1/2019 and 9/10/2019" and "ID/Name Contains:" with an empty text box. Search buttons are labeled "Search" and "Reset Search". A note states: "Note: To search all counties and for other options, click [Advanced Search](#)." Below the search criteria, it says "4 results found:" followed by a table of results.

ID		Name	Appointed	Application	Date of Birth	At Large	Rejected	Cert. Returned	Reappointment	County
630683	View Detail	Smith, James	9/3/2019	9/3/2019	1/1/1982	Yes	No	No	Yes	Adair
630682	View Detail	Smith, Joe	9/3/2019	9/3/2019	1/1/1982	Yes	No	No	Yes	Adair

KRS 423.400 (2) “Each county clerk who files a notary public’s assurance and administers the oath of office to a notary public shall promptly record the fact and date...”

The Kentucky County Clerk Portal allows a county clerk to record the book and page where the notary assurance is recorded. The existing portal will be modified to indicate that the oath of office was administered and who administered the oath.

The screenshot shows a web browser window with the URL `app.sos.ky.gov/notaries/ViewRecords.aspx`. The page title is "Kentucky Secretary of State - Notary". The navigation menu includes "Notary Services", "Online Services", "Fees", "Laws", "FAQs", and "Apostilles Contact Form". The main content area displays the following record details:

← Return to Search Results				<input type="button" value="Issue Certificate"/>
Record Detail:				
Record ID: 630683	Applicant ID: 630683	Certificate ID:	County: Adair	
Name:	James Smith			
Date of Birth:	1/1/1982			
Address:	111 Main St Columbia , KY 42728			
Date of Appointment:	9/3/2019	Date of Application:	9/3/2019	
State at Large:	Yes	Special Commission:	No	
Applied for Reappointment:	Yes	Certificate Returned to SOS From Clerk:	No	
Void:	No	Rejected:	No	
SOS Notes:	Test			
Certificate Issued By County Clerk:	No	Issued By (Clerk User ID):		
Date Issued by County Clerk:				
County Clerk Notes:				
Clerk Index - Book:		Clerk Index - Page:		
	<input type="button" value="Issue Certificate"/>			
Images:	<input type="text" value="None"/>			
Optional County Clerk Notes				
Clerk Notes	<input type="text"/>			
Book	<input type="text"/>			
Page	<input type="text"/>			

Once the required information has been entered the Notary Certificate will be generated by the county clerk.

The image file generated will be retained by the Secretary of State.

The screenshot shows a web browser window with the URL `app.sos.ky.gov/notaries/ViewRecords.aspx`. The page title is "Kentucky Secretary of State - Notary". The navigation menu includes "Kentucky.gov", "Agencies", and "Services". A dropdown menu for "Notary Services" is open, showing options like "Online Services", "Fees", "Laws", "FAQs", and "Apostilles Contact Form".

The main content area displays a record detail for a notary certificate. At the top, it says "Return to Search Results" and "This certificate has been issued. Click here to download/print the certificate." The record details are as follows:

Record ID: 630682	Applicant ID: 630682	Certificate ID: 617425	County: Adair
Name:	Joe Smith		
Date of Birth:	1/1/1982		
Address:	111 Smith Ct Faber , KY 40000		
Date of Appointment:	9/3/2019	Date of Application:	9/3/2019
State at Large:	Yes	Special Commission:	No
Applied for Reappointment:	Yes	Certificate Returned to SOS From Clerk:	No
Void:	No	Rejected:	No
SOS Notes:	Test		
Certificate Issued By County Clerk:	Yes	Issued By (Clerk User ID):	Johnna Ballinger
Date Issued by County Clerk:	9/9/2019 9:31:18 AM		

Below the record details, there is a section for "County Clerk Notes" and "Clerk Index - Book:" and "Clerk Index - Page:". It also repeats the "This certificate has been issued" message with a download/print link.

The "Images:" section contains a table with the following data:

	Description	Doc. Date	Pages	Scan Date
View Image	Notary Public Certificate (New Style)	9/3/2019	1	9/9/2019

The "Optional County Clerk Notes" section includes a text area for "Clerk Notes", input fields for "Book" and "Page", and "Update" and "Cancel" buttons.



Contact:

502-564-3490

SoS.Secretary@ky.gov

