

Webcam Notarizations And Other Legislative And Regulatory Trends To Watch In 2016

By Kelle Clarke on December 16, 2015 in Laws & Regulations

Several states enacted new laws and adopted regulations in 2015 that go into effect throughout 2016 and significantly impact Notaries across the nation. While most are state-specific, they represent legislative trends that may reach the larger Notary population in the near future.

In 2015, much of the new legislation was focused into four major categories: changes in Notary seal requirements, the wider acceptance of webcam notarization, a stricter scrutiny of election-related notarizations, and changes to Notary education and testing.

Webcam Notarizations

The trend toward wider acceptance of webcam notarizations gained momentum in 2015, with Montana, Florida, and Louisiana either enacting new webcam legislation, or studying the move.

Webcam notarizations make use of video and audio technology on the Internet to allow signers to personally appear before and communicate with the Notary at the time of the notarization. With traditional notarizations, the signer is in the Notary's physical presence.

[Note: Webcam Notarization is not the same as electronic notarization (commonly called eNotarization). With an eNotarization, the documents and notarial certificate are in digital form; the signer and Notary both sign digitally.]

In 2011, Virginia became the first state to allow Virginia electronic Notaries to use video and audio technology on the Internet to perform electronic notarizations. This redefines how signers personally appear before, identify themselves to, and communicate with the Notary at the time of the notarization.

In October, 2015, Montana began permitting its Notaries to perform webcam notarizations under specifically defined circumstances. For one, Notaries will be required to identify signers through either their own personal knowledge of the individual, or through the use of a credible witness. Also, the transaction must meet specific requirements and the signer must be a legal resident of Montana for all but one of these transactions. If these requirements are met, then any document, paper or electronic, may be notarized with the signer and Notary appearing via video and audio technology.

Florida also authorized webcam notarizations, but is limiting the practice to certain law enforcement and correctional officers who are authorized to administer oaths and affirmations.

Louisiana may be next to adopt some form of webcam notarizations, as the Louisiana legislature directed the Louisiana State Law Institute to study and examine the practice of eNotarization, including webcam eNotarizations. The Institute is scheduled to deliver a report and recommendations regarding its study by February, 2017, which Notary experts believe may shape the future of the practice in the state.

Tighter Scrutiny for Election-Related Notarizations

Notary fraud and notarization errors, particularly those involving the Notary's impartiality on ballot and nomination petitions, have been to blame for legal disputes during local elections. For this reason, Oklahoma and Arkansas passed new legislation that will directly impact Notaries involved in collecting petition signatures and notarizing absentee ballots.

Arkansas Notaries are now prohibited from committing certain improper acts with local option election petitions. They include:



- Soliciting signatures from individuals the Notary knows are not qualified to sign a petition,
- Signing other people's names to a petition, and
- Paying individuals to sign a petition.

Another new Arkansas law makes it a misdemeanor if a Notary:

- Fails to witness an election canvasser's signature affidavit in person, or
- Fails to properly identify an election canvasser when notarizing the canvasser's signature.

In Oklahoma, a new law clarified that the existing limitation of notarizing 20 absentee ballots in a single election does not apply when a Notary notarizes the ballots at the Notary's place of employment during normal business hours. However, it does apply to agencies or entities that provide voter registration services.

Education and Examinations

In an effort to ensure knowledgeable, qualified Notaries, Nevada, Montana and Hawaii have updated their state Notary education and examination requirements.

In 2015, Nevada became the 13th state to require a Notary exam. In addition, the mandatory training course has been reduced from four to three hours. Notaries who violate state laws may be required by the Secretary of State to retake the mandatory education course.

Applicants for a Notary commission in Montana who do not currently hold a Notary commission are now required to pass a mandatory Notary examination administered by the Secretary of State, or an entity approved by the Secretary. However, in enacting the new examination provision, the Montana legislation also repealed the prior education requirement. Going forward, taking an educational course will not be required for first-time Notary applicants.

Finally, Hawaii Notary applicants will be facing tightened mandatory Notary examination procedures. The state has also revised its administrative rules to clarify requirements for re-applying for a Notary commission and retaking the examination, should the applicant fail to pass the first time.

For more information about these and other new laws, visit the NNA's Notary Laws page.

Kelle Clarke is a Contributing Editor with the National Notary Association.

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10 Comments

Katy Wilcox 04 Jan 2016

The Webcam and others legislative and regulatory trends are discriminating against the lower class.

Lee Copalman 04 Jan 2016

Very informative

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Lizabeth Kirk 04 Jan 2016

I find the no education requirement for first time Montana notaries a bit scary. This will allow people to become a notary and know nothing about what they are doing. I am glad I live in California where everyone must take an educational course of either 3 or 6 hours in length.

J. Driscoll 05 Jan 2016

In spite of the fact that Webcam Notarizations could be helpful, I see a definite danger of future technology that will allow impersonation.

Margaret Joy Dunlevy 06 Jan 2016

Thank you for the update. Is California considering webcam use also?

National Notary Association 13 Jan 2016

Hello. The California Secretary of State's office has posted a message on their website that webcam notarizations are illegal and invalid in California. For more information, please see here: <http://www.sos.ca.gov/notary/customer-alert/>

Stacey Rame 16 Jan 2016

I don't understand how Webcam Notarizations can be accomplished. If the Signor appears before you and signs a document, via a webcam, how does the Notary then sign and stamp that document?

Katy Wilcox 24 Jan 2016

The Webcam and others legislative and regulatory trends are discriminating against the lower class.

J Phillips 11 Apr 2016

This company is using VA Law. Notarize.com

jb 15 Jul 2016

forgery dressed up with a new name to assist the corruption of the lawyers and the judicial system

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