

2021 Kansas Statutes

53-5a22. **Commission as notary public; qualifications; no immunity or benefit.** (a) An individual qualified under subsection (c) may apply to the secretary of state for a commission as a notary public. The applicant shall file with the secretary of state an application for appointment as a notary public that includes:

- (1) An oath of office;
- (2) an assurance in the form of a surety bond or its functional equivalent in the amount of \$12,000 that shall be issued by a surety or other entity licensed or authorized to do business in this state;
- (3) evidence of completion of the course of study and passing of the examination required by K.S.A. 2021 Supp. 53-5a23, and amendments thereto, if required;
- (4) the official signature and an impression of the stamp to be used by the notary public; and
- (5) an application fee in the amount of \$10.

(b) An application, oath of office and surety bond or its functional equivalent received pursuant to this section and a record of commission issued under this section shall be filed in the office of the secretary of state and properly indexed in that office. The secretary of state shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) An applicant for a commission as a notary public shall:

- (1) Be at least 18 years of age;
- (2) be a citizen of the United States;
- (3) be a resident of this state or be a resident of a state bordering on this state and have a regular place of employment or practice in this state;
- (4) be able to read and write the English language; and
- (5) not be disqualified to receive a commission by K.S.A. 2021 Supp. 53-5a24, and amendments thereto.

(d) The assurance required in subsection (a) shall cover acts performed during the term of the notary public's commission and shall be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. No suit shall be instituted against a notary public or the surety or issuing entity under the notary public's assurance more than three years after the cause of action accrues. The surety or issuing entity shall give notice to the secretary of state 30 days before canceling the assurance. The surety or issuing entity shall no longer be liable on such assurance 30 days after receipt of such notice by the secretary of state. Whenever the secretary of state receives such notice of intent to cancel a notary public's assurance, the secretary of state shall notify the affected notary public that unless such notary public files another assurance satisfying the requirements of this subsection with the secretary of state on or before the cancellation date, then such notary public will no longer be authorized to perform notarial acts within this state. The surety or issuing entity shall notify the secretary of state not later than 30 days after making a payment to a claimant under the assurance or the denial of a claim under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

(e) Any person injured by the failure of a notary public to faithfully perform any notarial act for which a bond or its functional equivalent is given under the laws of this state may

sue in the person's own name in any court of competent jurisdiction to recover the damages the person may have sustained by such failure.

(f) The secretary of state shall issue a commission as a notary public to an applicant for a term of four years, unless sooner revoked under K.S.A. 2021 Supp. 53-5a24, and amendments thereto, if such applicant complies with the provisions of this section.

(g) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees. A notary public shall not be considered a state officer.

(h) If a notary public changes name by any legal action, such notary shall obtain a new official stamp that meets the requirements established by K.S.A. 2021 Supp. 53-5a18, and amendments thereto, and the stamp shall contain the new name of the notary public. Prior to performing any acts as a notary public after such change, the notary shall mail or deliver to the secretary of state notice of the change of name and shall include a specimen of the new stamp and a specimen of the notary's new official signature.

(i) If a notary public obtains a new stamp for any reason, the notary shall mail or deliver to the secretary of state notice of the change of stamp that shall include an impression of the new stamp.

(j) An individual may resign from the office of notary public by sending by mail or delivering to the secretary of state a notification of the individual's resignation or intent or desire to resign. The individual's commission as notary public shall terminate upon delivery of the notification.

(k) A notary public's commission may not be automatically renewed. A notary public who desires to renew a commission shall be qualified and apply for a new commission pursuant to this section.

(l) This section shall take effect on and after January 1, 2022.

History: L. 2021, ch. 64, § 22; July 1.