

**423.390 Commission as notary public -- Requirements -- Oath and filing -- Surety bond -- Change of information -- Renewal of commission -- Administrative regulations -- Registration.**

- (1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required by administrative regulations promulgated by the Secretary of State and be accompanied by payment of the specified fee.
- (2) An applicant for a commission as a notary public shall:
  - (a) Be at least eighteen (18) years of age;
  - (b) Be a citizen or permanent legal resident of the United States;
  - (c) Be a resident of or have a place of employment or practice in the county within this Commonwealth where the application is made;
  - (d) Be able to read and write English;
  - (e) Not be disqualified to receive a commission under KRS 423.395;
  - (f) Submit to the Secretary of State any application forms, information, disclosures, and verifications as are required by administrative regulations promulgated by the Secretary of State;
  - (g) Submit to the Secretary of State proof of having obtained the requisite surety bond required under subsection (4) of this section;
  - (h) Take an oath of office as set forth in in subsection (4) of this section; and
  - (i) Submit a fee payment, as specified in KRS 423.430, made payable to the State Treasurer.
- (3) On compliance with this section, the Secretary of State shall issue a commission as a notary public to an applicant for a term of four (4) years. The Secretary of State shall assign a unique commission number to each notary public, which same commission number shall continue to be assigned to the notary public in the event of the renewal or later issuance of another commission to the same individual notary public.
- (4) Within thirty (30) days of receiving a notary public commission from the Secretary of State, the applicant shall appear in person to take an oath of office, submit an assurance in the form of a surety bond, and file the commission, all of which shall take place before the county clerk listed in the commission application. The applicant shall pay fees to the county clerk for filing the assurance and administering the oath as set forth in KRS 64.012.
- (5) The assurance required by this section shall be in the amount of one thousand dollars (\$1,000) and shall be issued by a surety or other entity licensed or authorized to do business in this state. The assurance 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 the law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty (30) days' notice to the Secretary of State before

canceling the assurance or of the assurance's expiration if such expiration is prior to the date of expiration of the notary's commission. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the county clerk.

- (6) A notarial officer may perform a notarial act in any county of the Commonwealth after filing the commission and assurance and taking the oath required by this section, and for so long as the notary public's commission and surety bond are valid and in effect.
- (7) If, at any time during his or her period of commission under this section, or period of registration under subsection (10) of this section, a notary public changes his or her mail or electronic mail address, county of residence, name, signature, electronic signature, or the technology or device used to perform notarial acts or to maintain his or her journal or to render electronic documents tamper-evident, the notary public shall, within ten (10) days after making the change, submit to the Secretary of State the changed information upon the form and containing all information required by the Secretary of State, along with a fee payment, as specified in KRS 423.430, payable to the State Treasurer.
- (8)
  - (a) Prior to the expiration of his or her commission period, a notary public may apply to the Secretary of State to renew his or her commission, and shall comply with the qualifications, renewal application filings, and other requirements then applicable to obtaining an original commission from the Secretary of State. The application for commission renewal shall be accompanied by a fee payment, as specified in KRS 423.430, made payable to the State Treasurer.
  - (b) If approved, the Secretary of State shall issue a renewed commission to the notary public for an additional four (4) year term, using the same commission number as the notary public's original commission and indicating the new commission expiration date.
  - (c) Pursuant to the procedures set forth in subsections (4) and (5) of this section, the commission along with the required assurance shall be filed with the county clerk listed in the renewal application, and a new oath of office administered by the county clerk and new fees paid by the notary public to the county clerk, as determined by KRS 64.012.
  - (d) A renewed commission shall be valid and effective only upon compliance with this subsection. A notary public shall have no authority to perform notarial acts during any period between the expiration of his or her current commission and the effective date of any renewal commission.
- (9) A commission to act as a notary public shall authorize the notary public to perform notarial acts. The commission shall not provide the notary public with any immunity or benefit conferred by the law of this state on public officials or employees.
- (10) Before performing an initial notarial act with respect to electronic records, or before performing an initial online notarial act, a notary public shall first register with the Secretary of State. The notary public shall:

- (a) At the time of registration, be a commissioned notary public in this Commonwealth who has complied with the requirements set forth in subsections (1) to (8) of this section, and who has complied with all applicable notarial requirements set forth in this chapter;
  - (b) Register with the Secretary of State by submitting an electronic registration pursuant to this subsection;
  - (c) Pay to the Secretary of State a registration fee payment, as specified in KRS 423.430, which is in addition to the commission application fee required to be a notarial officer in this state and any fees required to be paid to the county clerk to file a commission and assurance and to take an oath pursuant to KRS 62.010;
  - (d) Submit to the Secretary of State any registration forms, information, disclosures, and verifications required by administrative regulations promulgated by the Secretary of State; and
  - (e) Submit to the Secretary of State with the registration proof satisfactory to the Secretary of State that the registrant has satisfied the requirement to post an assurance as a notary public, as set forth in subsections (4) and (5) of this section.
- (11) The Secretary of State shall promulgate administrative regulations to establish forms and procedures applicable to the registrations governed by subsection (10) of this section, and shall obtain at least the following information in connection with each registration:
- (a) The registrant's commission number and full legal name as it appears on the registrant's commission, and the name to be used for registration, if different;
  - (b) The county in this state in which the registrant resides or has his or her place of employment or practice;
  - (c) The electronic mail and resident address of the registrant;
  - (d) Whether the registrant is registering to perform one (1) or both of the following:
    1. Notarial acts with respect to electronic records in which the individual will appear before the notary in the notary's physical presence; or
    2. As an online notary public to perform electronic notarizations;
  - (e) A description of the technologies or devices that the registrant intends to use to perform notarial acts with respect to electronic records or electronic notarizations, to maintain the journal required by KRS 423.380, and to render electronic records tamper-evident after a notarial act is completed, each of which technologies or devices shall comply with any standards established by the Secretary of State;
  - (f) The digital certification of the registrant; and
  - (g) Any other information, evidence, disclosures, or declarations required or deemed beneficial by the Secretary of State pursuant to any administrative regulations promulgated by the Secretary of State.

- (12) The Secretary of State may reject a registration if the applicant fails to comply with any provision of KRS 423.300 to 423.455.
- (13) Thirty (30) days after compliance with all registration requirements and payment of the required registration fee, a notary public will be registered with the Secretary of State to perform notarial acts in the physical presence of an individual signer with respect to electronic records, or to perform electronic notarizations as an online notary public, or as both.
- (14) The Secretary of State may at any time cancel the registration of a notary public to perform notarial acts with respect to electronic records, or as an online notary public to perform electronic notarizations, if the notary public fails to comply with any of the requirements of KRS 423.300 to 423.455 or based upon any of the grounds for revocation or suspension of a notary public's commission.
- (15) Registration of a notary public under this section is suspended by operation of law when the notary public is no longer commissioned as a notary public in this state. If the commission of a notary public has expired or been revoked or suspended, the Secretary of State shall immediately notify the notary public in writing that his or her registration under this section will be suspended by operation of law until he or she is appointed as a notary public in this Commonwealth.

**Effective:** January 1, 2020

**History:** Created 2019 Ky. Acts ch. 86, sec. 19, effective January 1, 2020.