

Idaho Secretary of State

Notary Training



Chapter 6 - Idaho Notary Law

In the previous five lessons, we've learned about the laws, rules, procedures, and ethics of performing notarial acts in Idaho. However, you may still have questions, especially when asked to perform a notarial act with special circumstances. This is why every notary public in Idaho should have a copy of the Idaho Notary Handbook for a more in-depth explanation of how to be a notary in Idaho. The handbook is available on the Idaho Secretary of State website, sos.idaho.gov.

As a notary, it's important to understand and follow Idaho's notary laws. Following these laws will be your best insurance against losing your commission. Not to mention, breaking these laws can result in criminal or civil penalties.

While the entirety of the Idaho Revised Law on Notarial Acts is important to review, in the next few minutes, we are going to zero in on a couple of common issues that we frequently see.

Title 51, Chapter 1 section 4, referred to as 51-104, Idaho Code, clarifies that a notary may not notarize a document in which they or their spouse have a direct beneficial interest. Think of this as simply being conflicted. Notarial Acts performed in violation of this statute are voidable.

Another common issue pertains to the expiration of the identification used during a notarial act.

51-107 Idaho Code states that while an expired ID may be used for identification, it must have expired within the last 3 years.

Idaho Code 51-111 through 51-113 are important to review, as they deal with acts performed under other authorities, such as those performed in other states, under tribal authority, or under federal authority. The important thing to remember in these cases is that the person performing the notarial act must be operating under the authority of, and be operating within the jurisdiction of the authority.

"51-115 and 51-120 address two common procedural issues. The first states that a notary may only actually sign a document AFTER performing the notarial act. The second addresses the use of electronic notarization, and states that a notary must register their technology with the Secretary of State BEFORE executing an act on an electronic record."

51-121 not only reviews the requirements for a commission as a notary, but also reminds us that this commission is a privilege, issued at the discretion of the Secretary of State. 51-123 outlines the conditions under which this same commission may be potentially revoked. These sections are important to remember, and worth your review.

Finally, Idaho Code 51-125 lays out what a notary commission does NOT authorize you to do. This chapter should be of high concern to a notary. The most common concern? Providing advice that would constitute legal counsel. 51-125 clearly states that a commission does not authorize a notary to "Assist persons in drafting legal records, give legal advice or otherwise practice law;"

That is the end of our training. Thank you for your attention, and we hope this has better equipped you to perform your duties as an Idaho Notary. Please feel free to contact our office with any questions!

