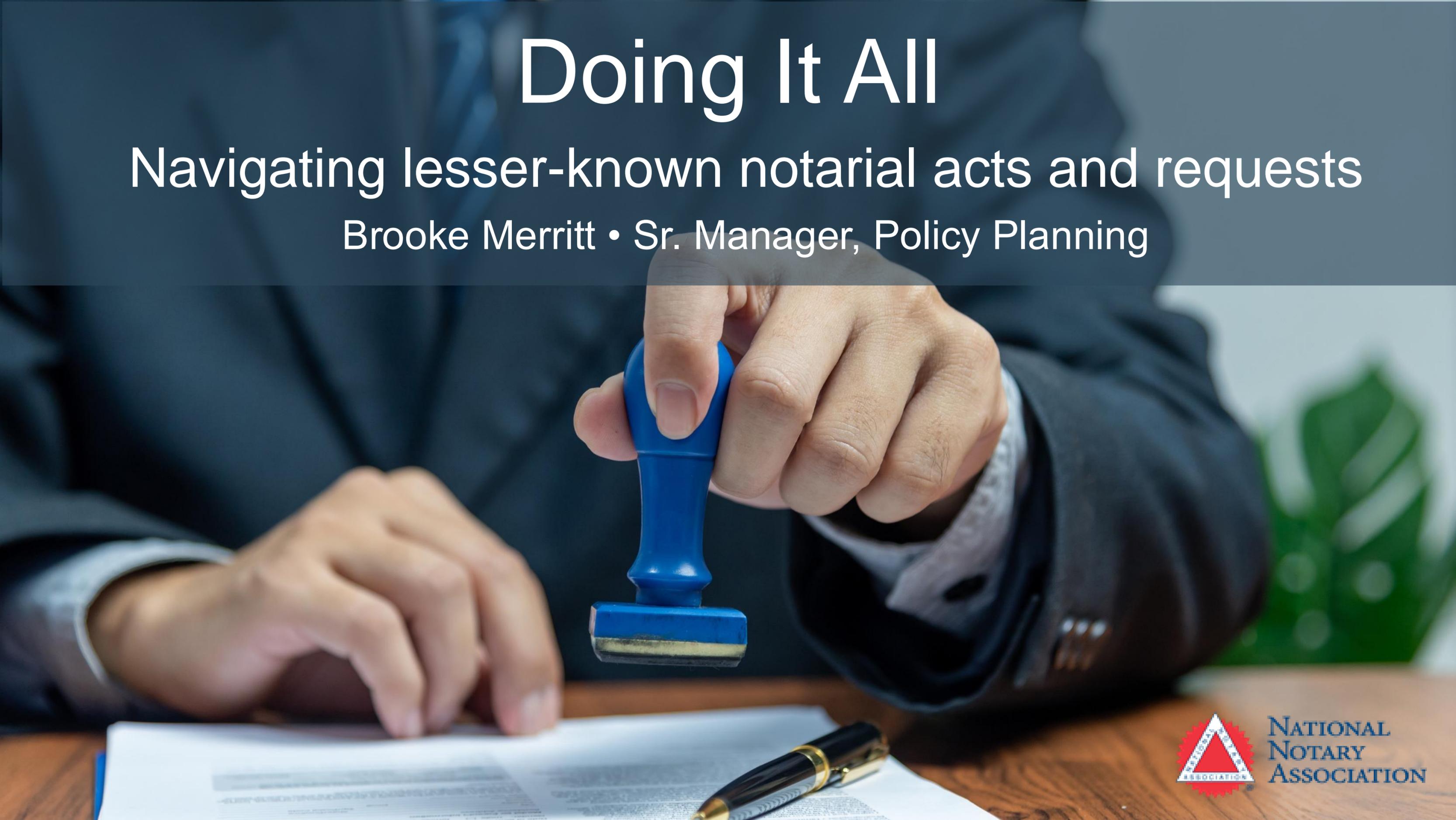


Doing It All

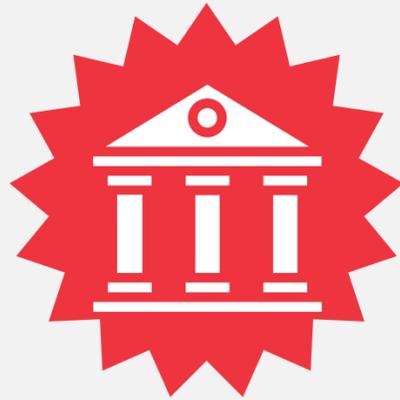
Navigating lesser-known notarial acts and requests

Brooke Merritt • Sr. Manager, Policy Planning



NATIONAL
NOTARY
ASSOCIATION

Agenda



Authorized Acts

Lesser-known acts authorized
by Montana law.



Restricted & Prohibited Acts

Limitations and prohibitions
that may not be obvious.



When You're Unsure

Best practices for navigating
unfamiliar requests.



Authorized Acts



Certification of a fact or event



Certification of life



Certification of a photograph



Certifying a copy of an item



Certifying a tangible copy of an electronic record



Certifying a fact or event

- A certification of fact allows a Notary to complete certain employment eligibility forms.
- A Notary may certify that a certain fact is true or that an event occurred.
- The Notary must review public or vital records or other legally accessible data.
- Personal appearance of the principal may or may not be necessary.
- The Notary must complete a notarial certificate substantially in the form in §1-5-610(11), MCA

§ 1-5-602(3), MCA

“**Certification of fact**’ means a notarial act in which a notary reviews public or vital records or other legally accessible data to ascertain or confirm any of the following facts:

- (a) date of birth, death, marriage, or divorce, or that an individual is alive;
- (b) name of parent, marital partner, offspring, or sibling;
- (c) that an event has occurred; or
- (d) any matter authorized by law or rule of this state for certification by a notary public.”



§ 1-5-603(11)(a), MCA

“A notarial officer who **certifies a fact** may review a public or private record to ascertain or verify that specific data is contained or shown on the record or memorialized in a publication that the Notary believes to be reliable.”



**MONTANA NOTARIAL CERTIFICATE
CERTIFICATION OF FACT OR EVENT**

State of Montana

County of _____

I certify that I have confirmed that _____
(Information being verified)

Is true and correct based on a review of _____ made
(Source of information)

by me on _____.

(Notary's Signature)

[Affix stamp above]



Certifying a life

- Often requested by non-citizens living in the U.S. who need to send forms to their country of origin attesting to the fact they are alive and are eligible for certain benefits.
- Personal appearance is required.
- The Notary must properly identify the subject (preferred proof of identity for the scenario above: an immigrant visa or a green card).
- The Notary must complete a notarial certificate substantially in the form in §1-5-610(12), MCA

§ 1-5-602(3), MCA

“Certification of fact’ means a notarial act in which a notary reviews public or vital records or other legally accessible data to ascertain or confirm any of the following facts:

- (a) date of birth, death, marriage, or divorce, or **that an individual is alive;**
- (b) name of parent, marital partner, offspring, or sibling;
- (c) that an event has occurred; or
- (d) any matter authorized by law or rule of this state for certification by a notary public.”



**MONTANA NOTARIAL CERTIFICATE
CERTIFICATION OF LIFE**

State of Montana

County of _____

I certify that _____ is alive and appeared physically before me

(Name of person)

at _____ on _____ at _____ a.m./p.m.

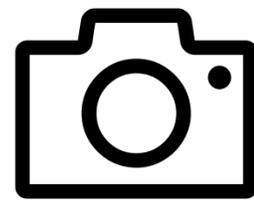
(Location)

(Date)

(Time)

(Notary's Signature)

[Affix stamp above]



Certifying a photograph

- A Notary may certify that a photograph contains an image of a person, place, or thing.
- The Notary must have personal knowledge or satisfactory evidence that the photograph is an accurate representation of the individual or subject.
- Satisfactory evidence is left up to the determination and discretion of the Notary.
- Personal appearance of the requestor is not required.
- The Notary must complete notarial certificate substantially in the form in §1-5-610(13), MCA.



§ 1-5-603(11)(c), MCA

“A notarial officer who **certifies a photograph** shall verify from personal knowledge or satisfactory evidence that the photograph is an accurate representation of the individual or item represented.”

**MONTANA NOTARIAL CERTIFICATE
CERTIFICATION OF PHOTOGRAPH**

State of Montana

County of _____

I certify that the attached photograph is an accurate representation of _____

(Description of subject of photo)

_____ based on _____ on _____

(How subject was confirmed)

(Date)

(Notary's Signature)

[Affix stamp above]

This certificate is to be attached to the record described above. Any evidence that it has been detached or removed may render the notarization invalid or unacceptable.





Certifying a copy of a tangible record or item

- The Notary verifies that a copy is identical to its original.
- Presence of the requestor is not required, but it is recommended.
- The Notary must personally make the copy from an original private document and determine that it is a full, true, and accurate reproduction of the original.
- A notary may not certify an original document or make and certify a copy of an official record such as a birth certificate, death certificate, court records, etc.

§ 1-5-603(5), MCA

“A notarial officer who **certifies or attests a copy of a record or an item that was copied** shall determine that the copy is a full, true, and accurate transcription or reproduction of the original or official record or the item...”





Acceptable

Forms of identification:

- Driver's licenses
- Passports
- Other ID cards (student, employee)

Personal documents:

- Diplomas
- Bank statements
- Bills
- Invoices

Tip:
These records are held by the individual.





⊘ Not Acceptable

- Birth or Death Certificates
- Marriage Licenses
- Divorce Decrees
- Court Orders
- Adoption Records
- School Transcripts
- FBI Fingerprint Cards
- Motor Vehicle Titles
- Any Recorded Document

Tip:
These records are held by a public entity.

Do not notarize copies of documents that state they cannot be copied.

**MONTANA NOTARIAL CERTIFICATE
CERTIFIED COPY OF A TANGIBLE RECORD**

State of Montana

County of _____

I certify that the attached record consisting of _____ pages is a true and correct copy of the

_____, an original record in the possession of, or issued by,
(Identification of record)

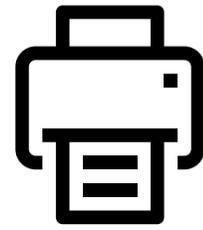
_____ and made by me on _____.
(Custodian or issuer) (Date)

(Notary's Signature)

[Affix stamp above]

This certificate is to be attached to the record described above. Any evidence that it has been detached or removed may render the notarization invalid or unacceptable.





Certifying a tangible copy of an electronic record

- The Notary must personally make the copy directly from the digital file and determine that it is a full, true, and accurate copy of the original record.
- The Notary must indicate on the certificate the number of pages or size of the digital file.
- The Notary must complete a notarial certificate substantially in the form in §1-5-610(7), MCA.

§ 1-5-603(5), MCA

“...A notarial officer may certify that a **tangible copy of an electronic record** is an accurate copy of the electronic record. A county clerk shall accept for recording a tangible copy of an electronic record containing an original notarial certificate as satisfying any requirement that a record be an original.”

**MONTANA NOTARIAL CERTIFICATE
CERTIFIED COPY OF AN ELECTRONIC RECORD**

State of Montana

County of _____

I certify that the foregoing and annexed record entitled _____, dated

_____, and consisting of _____ is a true and correct copy of an

(Pages or size of file)

electronic record printed directly from the electronic file by me on _____

(Date)

(Notary's Signature)

[Affix stamp above]

This certificate is to be attached to the record described above. Any evidence that it has been detached or removed may render the notarization invalid or unacceptable.



Tips



Understand what act is requested.



Properly identify the signer.



Know when to refuse.



Restricted & Prohibited Acts



Caution

- **1-5-603(8), MCA:** “A notarial officer who administers an oath in conjunction with taking a deposition and certifies or attests to the transcript of the deposition shall certify to the matters set forth by this part, other laws, or the court of jurisdiction.”
- **1-5-604(4), MCA:** “The notarial acts of certifying or attesting a transcript of an affidavit or deposition and noting a protest of a negotiable instrument may be performed only by notarial officers who are knowledgeable of the applicable legal requirements.

- Notarizing someone's signature on a deposition vs. certifying an official copy of a transcript of a deposition.
- Unless you are the court reporter, you CANNOT certify a copy of a transcription of a deposition.
- Noting a protest of a negotiable interest is for limited financial transactions and requires specialized training.





Act as an immigration consultant

1-5-625(3)(b), MCA

Retain an original record provided by a person who seeks performance of a notarial act

1-5-625(1)(g), MCA



Certify a copy of an official record by a public entity

1-5-625(1)(c), MCA

See Montana Code **1-5-625** for the full list of Prohibited acts and prohibited advertising requirements



**When
You're
Unsure**

Review your state laws

Ensure you are familiar with your state's laws, regulations and other official guidance.

Check the handbook

Know your state's handbook backwards and forwards. Check for updates.



Call the NNA Hotline

If you are a member of the National Notary Association, take advantage of this important membership benefit. Our Hotline Consultants are standing by Monday through Saturday.

Call the SOS's Office

Err on the side of caution. Contact your state regulating official if you are unsure of what to do. The Montana SOS office welcomes questions from Montana Notaries.

Montana State Resources

- **Secretary of State Website:**

<https://sosmt.gov/notary>

- **Notary Handbook**

- **406 Notary Academy**

<https://sosmt.gov/notary/academy>

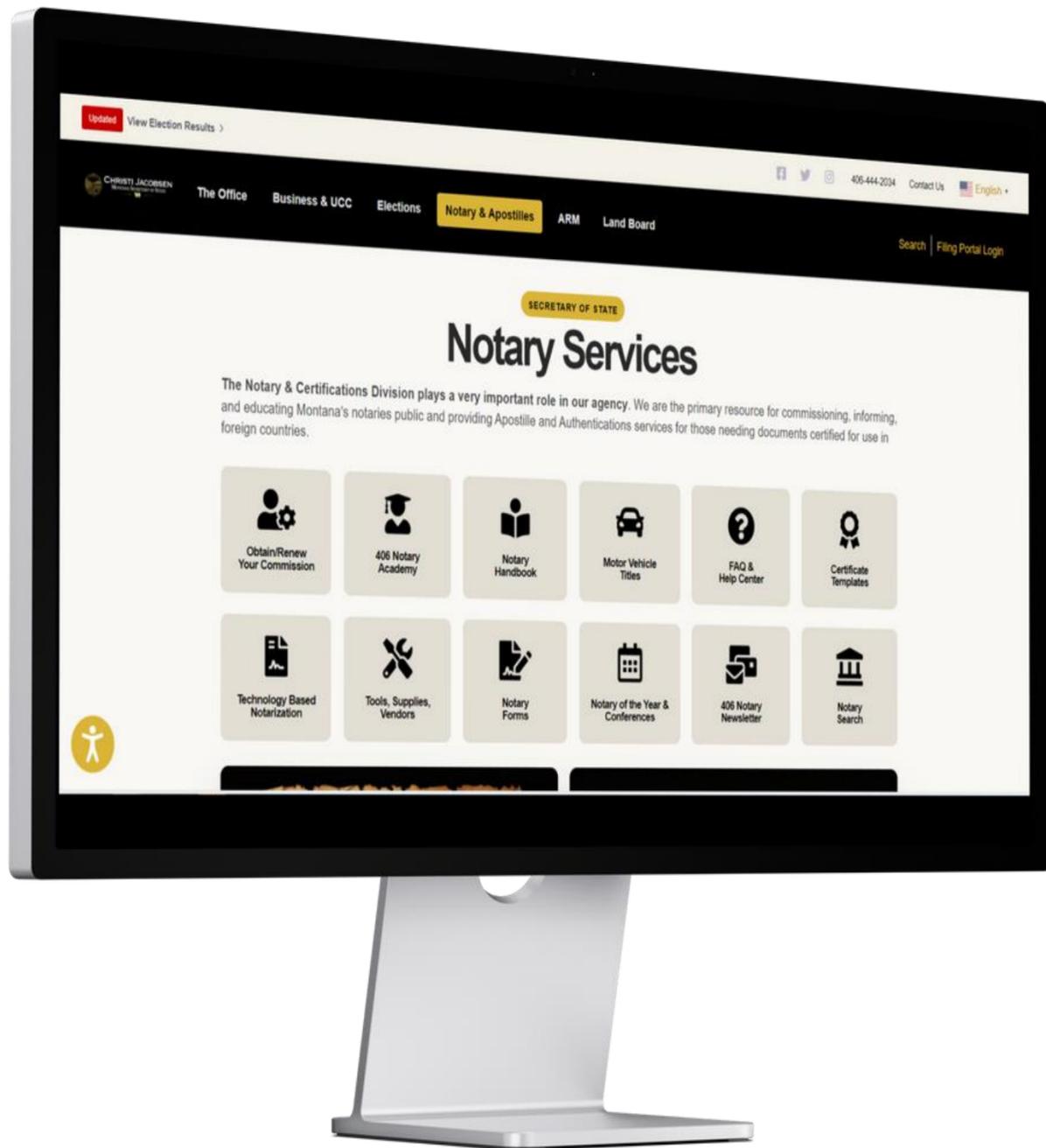
- **Certificate templates**

<https://sosmt.gov/notary/blocks>

- **Montana Code Annotated:**

<https://leg.mt.gov/statute/>

- Title 1, Chapter 5, Part 6: Notarial Acts



Thank You!



Brooke Merritt



bmerritt@nationalnotary.org

