

WISCONSIN STATUTES

CHAPTER 137. AUTHENTICATIONS AND ELECTRONIC TRANSACTIONS AND RECORDS SUBCHAPTER I. NOTARIES AND COMMISSIONERS OF DEEDS; NONELECTRONIC NOTARIZATION AND ACKNOWLEDGEMENT

137.01 Notaries.

(1) NOTARIES PUBLIC WHO ARE NOT ATTORNEYS.

(a) The governor shall appoint notaries public who shall be Wisconsin residents and at least 18 years of age. Applicants who are not attorneys shall file an application with the secretary of state and pay a \$20 fee.

(b) The secretary of state shall satisfy himself or herself that the applicant has the equivalent of an 8th grade education, is familiar with the duties and responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335, does not have an arrest or conviction record.

(c) If an application is rejected the fee shall be returned.

(d) Qualified applicants shall be notified by the secretary of state to take and file the official oath and execute and file an official bond in the sum of \$500, with surety to be approved by the clerk of the circuit court for his or her county, or, if executed by a surety company, approved by the secretary of state.

(e) The qualified applicant shall file his signature, post-office address and an impression of his official seal, or imprint of his official rubber stamp with the secretary of state.

(f) A certificate of appointment as a notary public for a term of 4 years stating the expiration date of the commission shall be issued to applicants who have fulfilled the requirements of this subsection.

(g) At least 30 days before the expiration of a commission the secretary of state shall mail notice of the expiration date to the holder of a commission.

(h) A notary shall not be entitled to reappointment.

(i) A notary public appointed under this subsection may not do any of the following:

1. State or imply that he or she is an attorney licensed to practice law in this state.
2. Solicit or accept compensation to prepare documents for or otherwise represent the interests of another person in a judicial or administrative proceeding, including a proceeding relating to immigration to the United States or U.S. citizenship.
3. Solicit or accept compensation to obtain relief of any kind on behalf of another person from any officer, agent, or employee of this state, a political subdivision of this state, or the United States.

4. Use the phrase “notario,” “notarizaciones,” “notarizamos,” or “notario publico,” or otherwise advertise in a language other than English on signs, pamphlets, stationery, or other written communication, by radio or television, or on the Internet his or her services as a notary public if the advertisement fails to include, in English and the language of the advertisement, all of the following:

a. The statement, if in a written advertisement, in all capital letters and the same type size: “I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN WISCONSIN AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.” If the advertisement is given orally, the statement may be modified but must include substantially the same message and be understandable.

b. The fees that a notary public may charge under sub. (9).

(j) The prohibitions under par. (i) 2. and 3. do not apply to a notary public who is an accredited representative, as defined in 8 CFR 292.1 (a) (4).

(k) A person who violates par. (i) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. A person who commits a 2nd or subsequent violation of par. (i) may be fined not more than \$10,000 or imprisoned for not more than 6 years or both.

(2) NOTARIES PUBLIC WHO ARE ATTORNEYS.

(a) Any Wisconsin resident who is licensed to practice law in this state is entitled to a permanent commission as a notary public upon application to the secretary of state and payment of a \$50 fee. The application shall include a certificate of good standing from the supreme court, the signature and post-office address of the applicant and an impression of the applicant's official seal, or imprint of the applicant's official rubber stamp.

(b) The secretary of state shall issue a certificate of appointment as a notary public to persons who qualify under the requirements of this subsection. Such certificate shall state that the notary commission is permanent.

(c) The supreme court shall file with the secretary of state notice of the surrender, suspension or revocation of the license to practice law of any attorney who holds a permanent commission as a notary public. Such notice shall be deemed a revocation of said commission.

(3) NOTARIAL SEAL OR STAMP.

(a) Except as authorized in s. 137.19, every notary public shall provide an engraved official seal which makes a distinct and legible impression or official rubber stamp which makes a distinct and legible imprint on paper. The impression of the seal or the imprint of the rubber stamp shall state only the following: "Notary Public," "State of Wisconsin" and the name of the notary. But any notarial seal in use on August 1, 1959, shall be considered in compliance.

(b) The impression of the notarial seal upon any instrument or writing or upon wafer, wax or other adhesive substance and affixed to any instrument or writing shall be deemed an affixation of the seal, and the imprint of the notarial rubber stamp upon any instrument or writing shall be deemed an affixation of the rubber stamp.

(4) ATTESTATION.

(a) Every official act of a notary public shall be attested by the notary public's written signature or electronic signature, as defined in s. 137.11(8).

(b) Except as authorized in s. 137.19, all certificates of acknowledgments of deeds and other conveyances, or any written instrument required or authorized by law to be acknowledged or sworn to before any notary public, within this state, shall be attested by a clear impression of the official seal or imprint of the rubber stamp of said officer, and in addition thereto shall be written or stamped either the day, month and year when the commission of said notary public will expire, or that such commission is permanent.

(c) The official certificate of any notary public, when attested and completed in the manner provided by this subsection, shall be presumptive evidence in all cases, and in all courts of the state, of the facts therein stated, in cases where by law a notary public is authorized to certify such facts.

(5) POWERS.

Notaries public have power to act throughout the state. Notaries public have power to demand acceptance of foreign and inland bills of exchange and payment thereof, and payment of promissory notes, and may protest the same for nonacceptance or nonpayment, may administer oaths, take depositions and acknowledgments of deeds, and perform such other duties as by the law of nations, or according to commercial usage, may be exercised

and performed by notaries public.

(5m) CONFIDENTIALITY.

(a) Except as provided in par. (b), a notary public shall keep confidential all documents and information contained in any documents reviewed by the notary public while performing his or her duties as a notary public and may release the documents or the information to a 3rd person only with the written consent of the person who requested the services of the notary public.

(b) Deposition transcripts may be released to all parties of record in an action. A notary public may not release deposition transcripts that have not been made part of the public record to a 3rd party without the written consent of all parties to the action and the deponent. When a deposition transcript has been made part of the public record, a notary public who is also a court reporter may, subject to a protective order or agreement to the contrary, release the deposition transcript or sell the transcript to 3rd parties without the consent of the person who requested the services of the notary public.

(c) Any notary public violating this subsection shall be subject to the provisions of sub. (8) and may be required to forfeit not more than \$500.

(6) AUTHENTICATION.

(a) The secretary of state may certify to the official qualifications of any notary public and to the genuineness of his signature and seal or rubber stamp.

(b) Whenever any notary public has filed in the office of the clerk of the circuit court of his county of residence his signature, an impression of his official seal or imprint of his official rubber stamp and a certificate of the secretary of state, such clerk may certify to the official qualifications of such notary public and the genuineness of his signature and seal or rubber stamp.

(c) Any certificate specified under this subsection shall be presumptive evidence of the facts therein stated.

(6m) CHANGE OF RESIDENCE.

A notary public does not vacate his or her office by reason of his or her change of residence within the United States. Written notice of any change of address shall be given to the secretary of state within 10 days of the change.

(7) OFFICIAL RECORDS TO BE FILED.

When any notary public ceases to hold office the notary public, or in case of the notary public's death the notary public's executor or administrator, shall deposit the notary public's official records and papers in the office of the secretary of state. If any such notary or any executor or administrator, after such records and papers come to his or her hands, neglects for 3 months to deposit them, he or she shall forfeit not less than \$50 nor more than \$500. If any person knowingly destroys, defaces or conceals any records or papers of any notary public, the person shall forfeit not less than \$50 nor more than \$500, and shall be liable to the party injured for all damages thereby sustained. The secretary of state shall receive and safely keep all such papers and records in their office.

(8) MISCONDUCT.

If any notary public shall be guilty of any misconduct or neglect of duty in office the notary public shall be liable to the party injured for all the damages thereby sustained.

(9) FEES.

A notary public shall be allowed the following fees:

(a) For drawing and copy of protest of the nonpayment of a promissory note or bill of exchange, or of the nonacceptance of such bill, \$1 in the cases where by law such protest is necessary, but in no other case.

(b) For drawing and copy of every other protest, 50 cents.

(c) For drawing, copying and serving every notice of nonpayment of a note or bill, or nonacceptance of a bill, 50 cents.

(d) For drawing any affidavit, or other paper or proceeding for which provision is not herein made, 50 cents for each folio, and for copying the same 12 cents per folio.

(e) For taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services, but the fee per document shall not exceed 50 cents.

History: 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211; 1993 a. 482; 1997 a. 27, 306; 1999 a. 77, 166; 2001 a. 16, 102; 2004 a. 294.

SUBCHAPTER II. ELECTRONIC TRANSACTIONS AND RECORDS; ELECTRONIC NOTARIZATION AND ACKNOWLEDGEMENT

137.19 Notarization and acknowledgement. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to administer the oath or to make the notarization, acknowledgment, or verification, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

CHAPTER 69. COLLECTION OF STATISTICS SUBCHAPTER I. VITAL STATISTICS

69.01 Definitions

(26) "Vital records" means any of the following:

(a) Certificates of birth, death, and divorce or annulment, and marriage documents.

(b) Worksheets that use forms that are approved by the state registrar and are related to documents under par. (a).

(c) Data related to documents under par. (a) or worksheets under par. (b).

History: 1985 a. 315; 1985 a. 332 s. 253; 1991 a. 39; 1993 a. 27; 1995 a. 27 s. 9126 (19); 2001 a. 16; 2003 a. 273.

69.24 Penalties.

(1) Any person who does any of the following shall be fined not more than \$10,000 or imprisoned not more than 2 years or both:

(a) Prepares or issues any paper or film which purports to be, or carries the appearance of, an original or a copy of a vital record, certified or uncertified, except as provided under this subchapter or s. 610.50 and except for ally hospital which issues any written announcement of the birth of a person to the parents of the person if the announcement contains plain notice that the announcement is not for official use.

History: 1985 a. 315; 1987 a. 247; 1987 a. 403 s. 256; 1997 a. 210, 283; 2001 a. 16, 109.

CHAPTER 220. BANKING

220.18 Bank or corporate notaries; permitted acts. It shall be lawful for any notary public who is a stockholder, director, officer, member, manager or employee of a bank or other corporation or limited liability company to take the acknowledgment of any party to any written instrument executed to or by that entity, or to administer an oath to any other

stockholder, director, officer, member, manager, employee or agent of that entity, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by that entity, if such notary is not a party to such instrument, either individually or as a representative of the entity.

History: 1993 a. 112.

CHAPTER 706. CONVEYANCES OF REAL PROPERTY; RECORDING; TITLES

706.07 Uniform law on notarial acts.

(1) DEFINITIONS. In this section:

(a) "Acknowledgment" means a declaration by a person that the person has executed an instrument for the purposes stated therein and, if the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed it as the act of the person or entity represented and identified therein.

(b) "In a representative capacity" means:

1. For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

2. As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

3. As an attorney in fact for a principal; or

4. In any other capacity as an authorized representative of another.

(c) "Notarial act" means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, noting a protest of a negotiable instrument.

(d) "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

(e) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

(2) NOTARIAL ACTS.

(a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(b) In taking a verification upon oath or affirmation, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

(d) In certifying or attesting a copy of a document or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(e) In making or noting a protest of a negotiable instrument, the notarial officer must determine the matters set forth in 403.509.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person:

1. Is personally known to the notarial officer;
2. Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or
3. Is identified on the basis of identification documents.

(3) NOTARIAL ACTS IN THIS STATE.

(a) A notarial act may be performed within this state by the following persons of this state:

1. A notary public;
2. A judge, clerk or deputy clerk of a court of record
3. A court commissioner;
4. A register of deeds or deputy register of deeds;
5. A municipal judge; or
6. A county clerk or deputy county clerk.

(b) Notarial acts performed within this state under federal authority as provided in sub. (5) have the same effect as notarial officer of this state.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(4) NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

1. A notary public of that jurisdiction;
2. A judge, clerk, or deputy clerk of a court of that jurisdiction; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in sub. (5) have the same effect as if performed by a notarial officer of this state.

(c) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(d) The signature and indicated title of an officer listed in par. (a) 1 or 2 conclusively establish the authority of a holder of that title to perform a notarial act.

(5) NOTARIAL ACTS UNDER FEDERAL AUTHORITY.

(a) A notarial act has the same effect under the law of this state as if performed anywhere by any of the following persons under authority granted by the law of the United States:

1. A judge, clerk, or deputy clerk of a court;
2. A commissioned officer on active duty in the military service of the United States;
3. An officer of the foreign service or consular officer of the United States; or
4. Any other person authorized by federal law to perform notarial acts.

(b) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(c) The signature and indicated title of an officer listed in par. (a) 1, 2 or 3 conclusively establish the authority of a holder of that title to perform a notarial act.

(6) FOREIGN NOTARIAL ACTS.

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or organization by any of the following persons:

1. A notary public or notary;
2. A judge, clerk, or deputy clerk of a court of record; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) An "apostille" in the form prescribed by the Hague convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(c) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial forth in the certificate.

(d) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

(e) An official stamp or seal of an officer listed in par. (a) 1 or 2 is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

(f) If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(7) CERTIFICATE OF NOTARIAL ACTS.

(a) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of office. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of par. (a) and it:

1. Is in the short form set forth in sub. (8);
2. Is in a form otherwise prescribed by the law of this state;
3. Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or
4. Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determination required by sub. (2).

(8) SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by sub. (7) (a):

(a) For an acknowledgment in an individual capacity:

State of....

County of....

This instrument was acknowledged before me on (date) by (name(s) of person(s)).

(Signature of notarial officer) (Seal, if any)
Title (and Rank)

[My commission expires:....]

(b) For an acknowledgment in a representative capacity:

State of....
County of....

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

(Signature of notarial officer) (Seal, if any)
Title (and Rank)
[My commission expires:....]

(c) For a verification upon oath or affirmation:

State of....
County of....

Signed and sworn to (or affirmed) before me on (date) by (name(s) of person(s) making statement).

(Signature of notarial officer) (Seal, if any)
Title (and Rank)
[My commission expires:....]

(d) For witnessing or attesting a signature:

State of....
County of....

Signed or attested before me on (date) by (name(s) of person(s)).

(Signature of notarial officer) (Seal, if any)
Title (and Rank)
[My commission expires:....]

(e) For attestation of a copy of a document:

State of....
County of....

I certify that this is a true and correct copy of a document in the possession of....

Dated:
(Signature of notarial officer) (Seal, if any)
Title (and Rank)

[My commission expires:....]

(9) NOTARIAL ACTS AFFECTED BY THIS SECTION.

This section applies to notarial acts performed on or after November 1, 1984.

(10) UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting it.

(11) SHORT TITLE.

This section may be cited as the uniform law on notarial acts.

History: 1983 a. 492; 1989 a. 123; 1995 a. 449; 1999 a. 85.

CHAPTER 887 DEPOSITIONS, OATHS AND AFFIDAVITS

87.01 Oaths, who may administer.

(1) WITHIN THE STATE.

An oath or affidavit required or authorized by law, except oaths to jurors and witnesses on a trial and such other oaths as are required by law to be taken before particular officers, may be taken before any judge, court commissioner, resident U.S. commissioner who has complied with s. 706.07, clerk, deputy clerk or calendar clerk of a court of record, court reporter, notary public, town clerk, village clerk, city clerk, municipal judge, county clerk or the clerk's deputy within the territory in which the officer is authorized to act, school district clerk with respect to any oath required by the elections laws; and, when certified by the officer to have been taken before him or her, may be read and used in any court and before any officer, board or commission. Oaths may be administered by any person mentioned in s. 885.01 (3) and (4) to any witness examined before him or her.

(2) WITHOUT THE STATE.

Any oath or affidavit required or authorized by law may be taken in any other state, territory or district of the United States before any judge or commissioner of a court of record, master in chancery, notary public, justice of the peace or other officer authorized by the laws thereof to administer oaths, and if the oath or affidavit is properly certified by any such officer to have been taken before the officer, and has attached thereto a certificate of the clerk of a court of record of the county or district within which the oath or affidavit was taken, under the seal of his or her office, that the person whose name is subscribed to the certificate of due execution of the instrument was, at the date thereof, the officer as is therein represented to be, was empowered by law as such officer to administer the oath or affidavit, and that he or she believes the name so subscribed is the signature of the officer, the oath or affidavit may be read or used in any court within this state and before any officer, board or commission authorized to use or consider the oath or affidavit. Whenever any such oath or affidavit is certified by any notary public or clerk of a court of record and an impression of his or her official seal is thereto affixed no further attestation shall be necessary.

(3) OFFICER IN ARMED FORCES.

In every instance where an officer in the armed forces is authorized by s. 706.07 (5) to take an acknowledgment, the officer may administer an oath.

History: 1971 c. 41 s. 11; 1977 c. 305; 1979 c. 110; 1983 a. 484; 1983 a. 492 s. 3; 1989 a. 141; 1993 a. 486.

887.02 Duty to administer official and election oaths; no fees.

(1) Every person thereto authorized by law shall administer and certify, on demand, any official oath and any oath required on any nomination paper, petition or other instrument used in the nomination or election of any candidate for public office, or in the submission of any question to a vote of the people.

(2) No fee shall be charged by any officer for administering or certifying any official oath, or any oath to any person relative to the person's right to be registered or to vote.

History: 1993 a. 486.

887.03 Oath, how taken.

Any oath or affidavit required or authorized by law may be taken in any of the usual forms, and every person swearing, affirming or declaring in any such form shall be deemed to have been lawfully sworn.