

NOTARIAL ACTS

Footnotes

This chapter not enacted as a part of this title; transferred from chapter 77A in Code 1993

9E.1 Title.

This chapter shall be known as the "*Iowa Law on Notarial Acts*".

89 Acts, ch 50, §1

CS89, § 77A.1

C93, § 9E.1

9E.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Acknowledgment*" means a declaration by a person that the person has executed an instrument for the purposes stated in the document 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 in the document.
2. "*Notarial act*" means any act that a notary public of this state is authorized to perform, and includes, but is not limited to, taking an acknowledgment, administering an oath or affirmation, taking verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.
3. "*Notarial officer*" means a notary public or other officer authorized to perform notarial acts.
4. "*Representative capacity*" means any of the following:
 - a. A representative on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative.
 - b. A public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument.
 - c. An attorney in fact for a principal.
 - d. Any other capacity as an authorized representative of another.
5. "*Verification upon oath or affirmation*" means a declaration that a statement is true, made by a person upon oath or affirmation.

89 Acts, ch 50, §2

CS89, § 77A.2

C93, § 9E.2

9E.3 Appointment revocation.

1. The secretary of state may appoint residents of this state as notaries public and may revoke an appointment for cause.
2. The secretary of state shall appoint members of the general assembly as notaries public, upon request, and may revoke an appointment for cause.
3. The secretary of state may appoint as a notary public a resident of a state bordering Iowa if that person's place of work or business is within the state of Iowa. If a notary who is a resident of a state bordering Iowa ceases to work or maintain a place of business in Iowa, the notary commission expires.
4. A person shall not be appointed as a notary public by the secretary of state unless the person is at least eighteen years of age and not disqualified from voting as provided in section 48A.6.

89 Acts, ch 50, §3

CS89, § 77A.3

C93, § 9E.3

2001 Acts, ch 38, §1; 2001 Acts, ch 176, §45, 46

9E.4 Term of commission.

The term of a notary public who is an Iowa resident is three years. The term of a notary who is a resident of a state bordering Iowa and whose place of work or business is in Iowa, is one year. The term of a notary who is a member of the general assembly is the member's term of office.

89 Acts, ch 50, §4

CS89, § 77A.4

C93, § 9E.4

9E.5 Notice of expiration of term.

The secretary of state shall, two months preceding the expiration of a commission, notify the notary public of the expiration date and furnish a blank application for reappointment.

89 Acts, ch 50, §5

CS89, § 77A.5

C93, § 9E.5

9E.6 Application fee.

1. Before a commission is delivered to a person appointed as a notary public, the person shall:
 - a. Complete an application for appointment as a notary public on a form prescribed by the secretary of state.

b. Remit the sum of thirty dollars to the secretary of state. However, persons appointed as notaries public under section 9E.3, subsection 2, are not subject to the fee imposed by this subsection.

2. When the secretary of state determines that the requirements of this section are satisfied, the secretary shall execute and deliver a certificate of commission to the person appointed.

89 Acts, ch 50, §6

CS89, § 77A.6

C93, § 9E.6

2001 Acts, ch 38, §2; 2001 Acts, ch 176, §45, 46

9E.6A Acquisition and use of stamp or seal.

Each person performing a notarial act pursuant to section 9E.10 must acquire and use a stamp or seal as provided in this chapter. However, this section shall not apply to a notarial act performed by a judicial officer as defined in section 602.1101, if the notarial act is performed in accordance with state or federal statutory authority, and shall not apply to a certification by a chief officer or a chief officer's designee of a peace officer's verification of a uniform citation and complaint pursuant to section 805.6, subsection 5.

The stamp or seal as required in this section shall contain all of the following:

1. For a person appointed as a notary public pursuant to section 9E.3, all of the following:

a. The words "Notarial Seal" and "Iowa".

b. The person's name.

c. The words "Commission Number" followed by a number assigned to the notary public by the secretary of state.

d. The words "My Commission Expires" followed either by the date that the notary public's term would ordinarily expire as provided in section 9E.4 or a blank line. If the seal or stamp contains a blank line, the person must print the date that the notary public's term would ordinarily expire on the blank line imprinted on each document, instrument, or paper subject to a notarial act.

2. For any other person, all of the following:

a. The words "Notarial Seal" and "Iowa".

b. The person's name.

c. The person's title under which the person may perform a notarial act under section 9E.10.

2001 Acts, ch 38, §3; 2001 Acts, ch 176, §45, 46; 2002 Acts, ch 1144, §1; 2004 Acts, ch 1054, §1, 2; 2004 Acts, ch 1175, §349

9E.7 Revocation notice and hearing rules.

If the commission of a person appointed notary public is revoked by the secretary of state, the secretary shall immediately notify the person through the mail. The notice shall state the cause of the revocation and shall

inform the person of the right to a hearing on the revocation. The secretary of state shall adopt rules under chapter 17A to provide for a hearing for persons whose commission is revoked.

89 Acts, ch 50, §7

CS89, § 77A.7

C93, § 9E.7

9E.8 Discretion limitation.

A notary public may exercise reasonable discretion in performing or declining to perform notarial services, but a notary shall not condition the performance of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notary is employed.

The employer of a notary public shall not condition the performing of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notary is employed.

89 Acts, ch 50, §8

CS89, § 77A.8

C93, § 9E.8

9E.9 Notarial acts.

1. In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary and making the acknowledgment is the person whose true signature is on the instrument.
2. 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.
3. 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 on the instrument.
4. In certifying or attesting a copy of a document or other item, the notarial officer must determine that the copy is a full, true, and accurate transcription or reproduction of that which was copied.
5. In making or noting a protest of a negotiable instrument, the notarial officer must determine whether there is evidence of dishonor as provided in section 554.3505.
6. A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document in any of the following circumstances:
 - a. The person is personally known to the notarial officer.
 - b. The person is identified upon the oath or affirmation of a credible witness personally known to the notarial officer.
 - c. The person is identified on the basis of identification documents.

89 Acts, ch 50, §9

CS89, § 77A.9

C93, § 9E.9

94 Acts, ch 1167, §1

9E.9A Defective notarial act.

An instrument in writing to which is attached a defective certificate of acknowledgment attached by a notary public more than ten years earlier is valid, legal, and binding as if the instrument had been properly acknowledged by the notary public.

96 Acts, ch 1060, §1

9E.10 Notarial acts in this state.

1. A notarial act may be performed within this state by the following persons:
 - a. A notary public appointed by the secretary of state pursuant to section 9E.3.
 - b. A judge, clerk, or deputy clerk of a court of this state.
 - c. A person authorized by the law of this state to administer oaths.
 - d. Any other person authorized to perform the specific act by the law of this state.
 - e. A registrar of vital statistics or a designee of a registrar of vital statistics.
2. Notarial acts performed within this state under federal authority have the same effect as if performed by a notarial officer of this state.
3. 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.

89 Acts, ch 50, §10

CS89, § 77A.10

C93, § 9E.10

97 Acts, ch 58, §1

Footnotes

Administration of oaths, see chapter 63A

9E.10A Notarial acts validity.

The validity of a notarial act shall not be affected or impaired by the fact that the notarial officer performing the notarial act is an officer, director, or shareholder of a corporation that may have a beneficial interest or other interest in the subject matter of the notarial act.

95 Acts, ch 105, §1, 2

9E.11 Notarial acts in other jurisdictions of the United States.

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

- a.* A notary public of that jurisdiction.
- b.* A judge, clerk, or deputy clerk of a court of that jurisdiction.
- c.* Any other person authorized by the law of that jurisdiction to perform notarial acts.

2. Notarial acts performed in other jurisdictions of the United States under federal authority as provided in section 9E.12 have the same effect as if performed by a notarial officer of this state.

3. 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. The signature and indicated title of an officer listed in subsection 1, paragraph "*a*" or "*b*" conclusively establish the authority of a holder of that title to perform a notarial act.

90 Acts, ch 1205, §4

C91, § 77A.11

C93, § 9E.11

9E.12 Notarial acts under federal authority.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed anywhere by any of the following persons under authority granted by the law of the United States:

- a.* A judge, clerk, or deputy clerk of a court.
- b.* A commissioned officer on active duty in the military service of the United States.
- c.* An officer of the foreign service or consular officer of the United States.
- d.* Any other person authorized by federal law to perform notarial acts.

2. 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.

3. The signature and indicated title of an officer listed in subsection 1, paragraph "*a*", "*b*", or "*c*", conclusively establish the authority of a holder of that title to perform a notarial act.

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section 331.606B.

90 Acts, ch 1205, §5

C91, § 77A.12

C93, § 9E.12

2005 Acts, ch 19, §11

9E.13 Foreign notarial acts.

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

- a. A notary public or notary.
- b. A judge, clerk, or deputy clerk of a court of record.
- c. Any other person authorized by the law of that jurisdiction to perform notarial acts.

2. 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.

3. 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 act set forth in the certificate.

4. 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.

5. An official stamp or seal of an officer listed in subsection 1, paragraph "*a*" or "*b*", is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

6. 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.

90 Acts, ch 1205, §6

C91, § 77A.13

C93, § 9E.13

9E.14 Certificate of notarial acts.

1. 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 shall include the official stamp or seal of the office. If the notarial officer is a commissioned officer on active duty in the military service of the United States, the certificate must also include the officer's rank.

2. A certificate of a notarial act is sufficient if it meets the requirements of subsection 1, and is in any of the

following forms:

- a. The short form set forth in section 9E.15.
 - b. A form otherwise prescribed by the law of this state, including those forms set out in chapter 558.
 - c. A form prescribed by the laws or regulations applicable in the place in which the notarial act was performed.
 - d. A form which sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.
3. By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 9E.9.

90 Acts, ch 1205, §7

C91, § 77A.14

C93, § 9E.14

2001 Acts, ch 38, §4; 2001 Acts, ch 176, §45, 46

9E.15 Short forms.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9E.14, subsection 1.

1. For an acknowledgment in an individual capacity: State of (County) of

This instrument was acknowledged before me on by date) name(s) of person(s))
..... (signature of notarial officer) (Stamp or Seal) Title (and Rank)

2. 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) (Stamp or Seal) Title (and Rank)

3. For a verification upon oath or affirmation: State of (County) of

Signed and sworn to (or affirmed) before me on by date) name(s) of person(s)
making statement) (signature of notarial officer) (Stamp or Seal) Title
(and Rank)

4. For witnessing or attesting a signature: State of (County) of

Signed or attested before me on by date) name(s) of person(s))
..... (signature of notarial officer) (Stamp or Seal) Title (and Rank)

5. 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) (Stamp or Seal) Title (and Rank)

90 Acts, ch 1205, §8

C91, § 77A.15

C93, § 9E.15

2001 Acts, ch 38, §5; 2001 Acts, ch 176, §45, 46; 2002 Acts, ch 1119, §2

Footnotes

Stamp or seal requirements, § 9E.6A

9E.16 Fees certification.

The secretary of state shall collect the following fees, for use in offsetting the cost of administering this chapter:

1. For furnishing a certified copy of any document, instrument, or paper relating to a notary public, one dollar per page and five dollars for the certificate.
2. For furnishing an uncertified copy of any document, instrument, or paper relating to a notary public, one dollar per page.
3. For certifying, under seal of the secretary of state, a statement as to the status of a notary commission which would not appear from a certified copy of documents on file in the secretary of state's office, five dollars.

89 Acts, ch 50, §11

CS89, § 77A.11

C91, § 77A.16

C93, § 9E.16

9E.17 Powers of the secretary of state.

The secretary of state has the power and authority reasonably necessary to administer this chapter efficiently and to perform the duties imposed upon the secretary of state. This power and authority includes rulemaking authority to provide for reciprocity in recognizing notarial acts performed under any other jurisdiction.

89 Acts, ch 50, §12

CS89, § 77A.12

C91, § 77A.17

C93, § 9E.17