

MASON'S MINNESOTA STATUTES

1927

PUBLISHED UNDER THE TERMS OF THE CONTRACT MADE BY THE
STATUTE COMPILATION COMMISSION FOR THE PUBLICATION OF
THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED
BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

COMPILED AND EDITED BY THE EDITORIAL STAFF OF THE
CITER-DIGEST COMPANY

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Citer-Digest Company
St. Paul
1927

CHAPTER 46

NOTARIES PUBLIC

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6937. **Appointment—Fee**—The governor may appoint and commission as notaries public, by and with the advice and consent of the senate, as many citizens of this state, over the age of twenty-one years, resident in the county for which appointed, as he deems necessary. The fee for each commission shall not exceed three dollars, and shall be paid to the governor's private secretary. (2656) [5708].

6938. **Term—Bond—Oath**—Every notary so commissioned shall hold office for seven years, unless sooner removed by the governor or the district court; and, before entering upon the duties of his office, he shall give a bond to the state in the sum of two thousand dollars, to be approved by the governor, conditioned for the faithful discharge of the duties of his office, which, with his oath of office, shall be filed with the secretary of state. (2657) [5709].

Liability on defective bond (55-187, 56+751). Liability where notary certifies to acknowledgment without personal knowledge as to identity of party (100-289, 110+966).

129-221, 152+267.

That no leave of court to sue on an official bond has been obtained cannot be raised, where the answer consists only of a general denial. 210+161.

6939. **Seal—Register**—Every notary shall provide himself with an official seal, with which he shall authenticate his official acts, and upon which shall be engraved the arms of this state, the words "Notarial Seal," and the name of the county in which he resides. Such seal, with his official register, shall be exempt from execution, and, on his death or removal from office, such register shall be deposited with the clerk of the district court of his county. (2658) [5710].

Official acts of notary void unless authenticated by seal (28-118, 9+636; 39-102, 38+801; 81-225, 83+835. See 36-9, 29+338; 36-243, 31+211; 49-235, 51+920).

A notary's official seal is essential to a certification of a mechanic's lien statement. 161-147, 201+603.

6940. **Powers**—Every such notary shall have power throughout the state, while residing in the county for which he was appointed, to administer all oaths required or authorized by law, to take and certify depositions, acknowledgments of deeds, and other instruments, and to receive, make out, and record notarial protests. (2659) [5711].

May administer oath required by ordinance (84-281, 87+764). Attorney in action, if notary, may take affidavit of service of summons therein (18-90, 72). Taking proof or acknowledgment ministerial, and not judicial (100-289, 110+966).

6941. **Date of expiration of commission and name to be indorsed**—Each notary public so appointed, commissioned and qualified, shall have power throughout this state, while residing within the county for which he was appointed, to administer all oaths required or authorized to be administered in this state; to take and certify all depositions to be used in any of the courts of this state; to take and certify all acknowledgments of deeds, mortgages, liens, powers of attorney and other instruments in writing and to receive, make out and record notarial protests.

Every notary public, taking an acknowledgment of an instrument, taking a deposition, administering an oath, or making a notarial protest, shall, immediately following his signature to the jurat or certificate of acknowledgment, indorse the date of the expiration of his commission; such indorsement may be legibly written, stamped or printed upon the instrument, but must be disconnected from the seal, and shall be substantially in the following form: My commission expires 192..... Every notary public, in addition to signing his name to the jurat or certificate of acknowledgment, shall, immediately following his signature and immediately preceding his official description, indorse thereon his name with a typewriter or print the same legibly with a stamp or with pen and ink. Provided, however, that the failure so to indorse or print said name shall not invalidate any jurat or certificate of acknowledgment. (G. S. '94 § 2271, amended '05 c. 48 § 1; '21 c. 430 § 1) [5712].

Historical—G. S. 1894 § 2271 was G. S. 1866 c. 26 § 4, which was repealed, its provisions being incorporated in the preceding section. So far as the above section differs from the Revised Laws, it is to be construed, as amendatory or supplementary. Omission in notary's certificate of the time of expiration of commission does not vitiate the instrument when filed as constructive notice (192+111).

6942. **Record of commission—Certificates**—The commission of every notary shall be recorded in the office of the clerk of the district court of the county for which he is appointed, in a book kept for that purpose, on payment of a fee of one dollar; and thereafter such clerk, when requested, shall certify to his official acts in the same manner and for the same fees allowed by law for similar certificates to authenticate acts of justices of the peace. (2660) [5713].

6943. **Notary in detached county—Powers**—That in any county which has heretofore been detached from another county of this state, and which has been newly created and organized, any notary public residing in such newly created and organized county, who was a resident of the county from which such new county was detached and created shall have the same powers during the unexpired term of his appointment as such notary public which he was authorized by law to exercise under the commission issued to him as a resident of the county from which said new county was detached and created, and within which he was originally appointed such notary public; and all acts heretofore done by any such notary public, while residing in said newly created and organized county, otherwise in conformity of law, are hereby declared to be legal and valid and to the same effect as if said notary public had been originally commissioned as a resident of said

newly created and organized county; provided, that the provisions of this section shall not apply to any action or proceeding now pending in any court in this state. ('07 c. 323 § 1) [5714]

6944. Record of commission—Such notary public so residing in said newly created and organized county shall have his commission as such notary public recorded by the clerk of the district court of said newly created and organized county in which he resides, or of the county to which said newly created county is attached for judicial purposes as provided in section two thousand six hundred sixty, Revised Laws 1905 [6942], and when so recorded shall be entitled to the same certificate of and from the clerk of said district court as provided in said section two thousand six hundred sixty, Revised Laws 1905 [6942]. ('07 c. 323 § 2) [5715]

6945. Seal—Such notary shall also immediately upon the adoption of this act, provide himself with an official seal as provided in and in conformity with section two thousand six hundred fifty-eight, Revised Laws 1905 [6939]. ('07 c. 323 § 3) [5716]

6946. Misconduct—Any notary who shall exercise the duties of his office after the expiration of his term, or when otherwise disqualified, or who shall append his official signature to acknowledgments or other documents when the parties executing the same have not appeared before him, shall be guilty of a misdemeanor. (2661) [5717]

Cited (100-289, 110+366).

That no leave of court to sue on an official bond has been obtained cannot be raised, where the answer consists only of a general denial. 210+161.

6947. Protests—Every notary protesting any bill of exchange or promissory note for non-acceptance or non-payment shall give notice thereof in writing to each party protested against, immediately after such protest is made; and such notice may in all cases be given by depositing the same in the postoffice, postage paid, and directed to the party protested against, at his reputed place of residence; and the notary shall, in such instrument of protest, certify to the time and manner of service of such notice upon the several parties protested against, and shall make a record of such instrument of protest in his official register, which record, or a certified copy thereof, shall be prima facie evidence of the facts therein contained. (2662) [5718]

3-323, 227; 7-426, 341; 16-68, 56; 28-337, 94872.

6948. Instrument of protest as evidence—The instrument of protest of any notary of this state, or of any other state or territory of the United States, accompanying any bill of exchange or promissory note which has been protested by such notary for non-acceptance or for non-payment, shall be received in all the courts of this state as prima facie evidence of the

facts therein certified; but any party may contradict such certificate by other evidence. (2663) [5719]

7-426, 341; 16-68, 56; 17-209, 183; 19-396, 342; 28-337, 94872; 31-329, 174863; 61-291, 63+739; 69 Fed. 798.
Cited (98-302, 108+272).

6949. Taking depositions—In taking depositions, he shall have the same power to compel the attendance of and to punish witnesses for refusing to testify which may be vested by law in justices of the peace, and all sheriffs and constables shall serve and return all process issued by such notaries in taking depositions. (2664) [5720]

6950. Removal from office—Every notary who shall charge or receive a fee or reward for any act or service done or rendered by him under this chapter greater than the amount allowed by law, or who dishonestly or unfaithfully discharges his duties as notary, shall, on complaint filed and substantiated as in other civil cases in the district court of the county in which he resides, be removed from office by such court. The fact of such removal shall thereupon be certified by the clerk to the governor, and the person so removed shall thereafter be ineligible to such office. (2665) [5721]

6951. Acknowledgments and affidavits legalized—That all acknowledgments and affidavits taken by any members of the legislature of this state as a notary public, who at the time of taking such acknowledgment was a member of said state legislature, are hereby legalized and made valid and effectual in all particulars, together with the records thereof where the instrument bearing such acknowledgment has been recorded as provided by law; provided, that this act shall not extend to any action or proceeding now pending. ('21 c. 139 § 1)

6951-1. Acknowledgments by members of legislature as notaries public legalized—Instruments and records legalized—That every acknowledgment taken by any member of the Legislature of this State as a notary public, who at the time of taking such acknowledgment was a member of said State Legislature, is hereby legalized and made valid, and all deeds, mortgages and other instruments affecting the title to or creating liens upon any real estate within this state, bearing such acknowledgment, which have been recorded in the proper county in this state, are, together with the record thereof, hereby legalized and made valid and effectual to all intents and purposes and of the same force and effect in all respects, for the purpose of notice, evidence and otherwise, as if such defect of acknowledgment and record had not existed. ('25, c. 3, § 1)

6951-2. Same—Pending actions not affected—Provided that the provisions of this act shall not apply to or affect any action or proceeding now pending in any of the courts of this state. ('25, c. 3, § 2)