

## CHAPTER 359

## NOTARIES PUBLIC

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**359.01 COMMISSION.** 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 21 years, resident in the county for which appointed, as he deems necessary. The fee for each commission shall not exceed \$5, and shall be paid to the governor's private secretary.

[R L s 2656; 1955 c 820 s 44] (6937)

**359.02 TERM, BOND, OATH, REAPPOINTMENT.** 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 \$2,000, 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. Within ten days before the expiration of his commission he may be reappointed for a new term to commence and to be designated in his new commission as beginning upon the day immediately following such expiration. The reappointment so made shall go into effect and be valid although the appointing governor may not be in the office of governor on said day.

[R L s 2657; 1953 c 63 s 1] (6938)

**359.03 SEAL; REGISTER.** Subdivision 1. 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 for which he was appointed. 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.

Subd. 2. All instruments heretofore duly made and executed which have been acknowledged before a notary public as provided by law, but the seal used thereon has engraved on it "notary public," are hereby validated and legalized, and in case such instruments are recorded, the recording is hereby validated and legalized, and all such instruments are validated to the same extent as though properly sealed at the time of their acknowledgment. This subdivision shall not affect any action now pending in any of the courts of this state.

[R L s 2658; 1947 c 42 s 1; 1947 c 372 s 1] (6939)

**359.04 POWERS.** Every such notary shall have power throughout the state, 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.

[R L s 2659; 1947 c 372 s 2] (6940)

**359.05 DATE OF EXPIRATION OF COMMISSION AND NAME TO BE ENDORSED.** Each notary public so appointed, commissioned, and qualified, shall have power throughout this state 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, endorse the date of the expiration of his commission; such endorsement may be

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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 ..... 19....." 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, endorse thereon his name with a typewriter or print the same legibly with a stamp or with pen and ink; provided that the failure so to endorse or print the name shall not invalidate any jurat or certificate of acknowledgment.

[G S 1866 c 26 s 4; G S 1894 s 2271; 1905 c 48 s 1; 1921 c 480 s 1; 1947 c 372 s 3] (6941)

**359.06 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 \$1; 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.

[R. L. s. 2660] (6942)

**359.07 NOTARY IN DETACHED COUNTY.** Subdivision 1. **Powers.** 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 the new county was detached and created, shall have the same powers during the unexpired term of his appointment as such notary public was authorized by law to exercise under the commission issued to him as a resident of the county from which the 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 the 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 the notary public had been originally commissioned as a resident of the newly created and organized county.

Subd. 2. **Record of commission.** Such notary public so residing in the newly created and organized county shall have his commission as such notary public recorded by the clerk of the district court of the newly created and organized county in which he resides, or of the county to which the newly created county is attached for judicial purposes, as provided in section 359.06, and when so recorded shall be entitled to the same certificate of and from the clerk of the district court as provided in section 359.06.

Subd. 3. **Seal.** Such notary shall, immediately upon the adoption of this section, provide himself with an official seal, as provided in and in conformity with section 359.03.

[1907 c. 323 ss. 1, 2, 3] (6943, 6944, 6945)

**359.08 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.

[R. L. s. 2661] (6946)

**359.09 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 post-office, 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.

[R. L. s. 2662] (6947)

**359.10 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

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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.

[R. L. s. 2663] (6948)

**359.11 TAKING DEPOSITIONS.** In taking depositions, the notary shall have the same power to compel the attendance of and to punish witnesses for refusing to testify as may be vested by law in justices of the peace, and all sheriffs and constables shall serve and return all process issued by any notary in taking depositions.

[R. L. s. 2664] (6949)

**359.12 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.

[R. L. s. 2665] (6950)