

CHAPTER 358

SEALS, OATHS, ACKNOWLEDGMENTS

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358.01 PRIVATE SEALS ABOLISHED. Private seals are abolished, and all written instruments formerly required by law to be sealed shall be equally effective for all purposes without a seal; but nothing herein shall apply to the use of corporate seals.

[R. L. s. 2652] (6933)

358.02 GREAT SEAL; DESCRIPTION, WHERE DEPOSITED. The seal heretofore used as the seal of the state is declared to be the seal thereof; and a description of the same in writing shall be recorded with the secretary of state, and remain a public record in his office.

[R. L. s. 2653] (6934)

358.028 LEGISLATORS, OFFICIAL SEALS. Every member of the legislature, so long as he remains in office and continues to reside in the district from which he was elected, may furnish himself with an official seal, in the form provided in Minnesota Statutes, Section 358.03, with which he may authenticate his official acts provided for in Minnesota Statutes, Section 358.15.

[1955 c 72 s 1]

358.03 FORM OF OFFICIAL SEALS. Upon every seal of a court or officer authorized or required to have a seal there shall be engraved the same device that is engraved on the seal of the state, and the name of the court or office in which it is to be used.

[R L s 2654; 1947 c 199 s 1] (6935)

358.04 TEMPORARY SEAL, WHEN USED. When any court of record is unprovided with a seal, the judge thereof may authorize the use of any temporary seal, or of any device by way of seal, until one is provided.

[R. L. s. 2655] (6936)

358.05 OATH OF OFFICE. The oath of office to be taken by members and officers of either branch of the legislature shall be that prescribed by the Constitution of the State of Minnesota, Article 4, Section 29. Every person elected or appointed to any other public office, including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in the Constitution of the State of Minnesota, Article 5, Section 8.

[R. L. s. 2677] (6963)

358.06 TRUSTEES, REFEREES. Unless otherwise provided by law, every executor, administrator, guardian, trustee, referee, arbitrator, viewer, assessor, appraiser, and other person appointed by or made responsible to the court in any action or proceeding, before entering upon his duties as such, shall take and subscribe the following oath:

"I, A.B., do swear that I will faithfully and justly perform all the duties of the office and trust which I now assume as (insert brief description of office), to the best of my ability. So help me God."

[R. L. s. 2678] (6964)

358.07 FORMS OF OATH IN VARIOUS CASES. An oath substantially in the following forms shall be administered to the respective officers and persons herein-after named:

(1) To grand jurors:

"You each do swear that you will diligently inquire, and true presentment make, of all public offenses committed within this county of which you have legal proof; the counsel of the state and of yourself and fellows you will keep secret; you will present no person through malice or ill-will, nor leave any unpresented through fear or favor, or the receipt or hope of reward, but will present things truly to the best of your understanding and according to law. So help you God."

(2) To petit jurors in civil actions:

"You each do swear that you will impartially try the issues in this case, and a true verdict give, according to law and the evidence given you in court; your own counsel and that of your fellows you will duly keep; you will say nothing to any person concerning the case, nor suffer any one to speak to you about it, and will keep your verdict secret until you deliver it in court. So help you God."

(3) To petit juries in criminal cases:

"You each do swear that, without respect of persons or favor of any man, you will well and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to law and the evidence given you in court. So help you God."

(4) To officers attending grand juries:

"You do swear that, as officer of the grand jury, you will keep their counsel and that of the state, and not disclose anything relative to their proceedings. So help you God."

(5) To same in charge of petit juries:

"You do swear that you will keep this jury together, and, so far as may be, secluded, so long as they shall remain in your charge; will suffer no one to communicate with or overhear them while deliberating upon their verdict; and will not by word or sign disclose, except to the court alone, anything that may come to your knowledge concerning their action in this case until they are duly discharged."

(6) Same, in charge during recess:

"You do swear that you will keep together this jury until they return into court, and that in the meantime you will suffer no one to speak to them, nor speak to them yourself, concerning the cause on trial, or any matter relating thereto."

(7) To witnesses:

"You do swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God."

(8) To interpreters:

"You do swear that you will truly and impartially interpret to this witness the oath about to be administered to him, and the testimony he shall give relative to the cause now under consideration. So help you God."

(9) To attorneys:

"You do swear that you will support the constitution of the United States and that of the State of Minnesota, and will conduct yourself as an attorney and counselor at law in an upright and courteous manner, to the best of your learning and ability, with all good fidelity as well to the court as to the client, and that you will use no falsehood or deceit, nor delay any person's cause for lucre or malice. So help you God."

(10) To affiants:

"You do swear that the statements of this affidavit, by you subscribed, are true. So help you God."

[R. L. s. 2679] (6965)

358.08 AFFIRMATION IN LIEU OF OATH. If any person of whom an oath is required shall declare that he has religious scruples against taking the same, the word "swear" and the words "so help you God" may be omitted from the foregoing forms, and the word "affirm" and the words "and this you do under the penalties of perjury" shall be substituted therefor, respectively, and such person shall be considered, for all purposes, as having been duly sworn.

[R. L. s. 2680] (6966)

358.09 BY WHOM AND HOW ADMINISTERED. Any officer authorized by

this chapter to take and certify acknowledgments may administer an oath, and, if the same be in writing, may certify the same under his official signature, and the seal of his office, if there be one, in the following form: "Subscribed and sworn to before me this.....day of....., 19....." The mode of administering an oath commonly practiced in the place where it is taken shall be followed, including, in this state, the ceremony of uplifting the hand.

[R. L. s. 2681] (6967)

358.10 OFFICIALS MAY ADMINISTER, WHEN. All persons holding office under any law of this state, or under the charter or ordinances of any municipal corporation thereof, including judges and clerks of election, and all committeemen, commissioners, trustees, referees, appraisers, assessors, and all others authorized or required by law to act or report upon any matter of fact, shall have power to administer such oaths as they may deem necessary to the proper discharge of their respective duties.

[R. L. s. 2682] (6968)

358.11 OATHS, WHERE FILED. Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

(1) If that of an officer of the state, whether elective or appointive, with the secretary of state;

(2) If of a county officer, or an officer chosen within or for any county, with the county auditor;

(3) If of a city, village, or borough officer, with the clerk or recorder of the municipality;

(4) If of a town officer, with the town clerk;

(5) If of a school district officer, with the clerk of the district;

(6) If of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the clerk of such court;

(7) If that of a person appointed by any state, county, or other officer for a special service in connection with his official duties, with such officer.

If the person taking such oath be also required to give bond, the oath shall be attached to or endorsed upon such bond and filed therewith, in lieu of other filing.

[R. L. s. 2683] (6969)

358.12 ACKNOWLEDGMENTS; FORM OF CERTIFICATE. The forms hereinafter given may be used in certifying the acknowledgment of written instruments, whether affecting real estate or not, and acknowledgments so taken and certified shall satisfy all requirements of law relating to the execution and recording of such instruments. Every such certificate shall begin with a caption naming the state and the county or place wherein the acknowledgment was taken, and the official signature of the certifying officer, with the seal of his office, if there be one, shall be appended thereto:

(1) In case of natural persons acting in their own right:

"On this day of, 19....., before me personally appeared A. B. (or A. B. and C. D.), to me known to be the person (or persons) described in, and who executed, the foregoing instrument, and acknowledged that he (or they) executed the same as his (or their) free act and deed."

(2) In case of natural persons acting by attorney:

"On this day of, 19....., before me personally appeared A. B., to me known to be the person who executed the foregoing instrument in behalf of C. D., and acknowledged that he executed the same as the free act and deed of C. D."

(3) In case of corporations, business trusts or joint stock associations:

"On this day of, 19....., before me appeared A. B., to me personally known, who, being by me duly sworn (or affirmed), did say that he is the president (or other officer, trustee or agent) of (name of the corporation, business trust or association); that the seal affixed to the foregoing instrument is the corporate seal of the corporation (or seal of the business trust or association), (or, if it has no seal, that the corporation, business trust or association has no corporate, business trust or association seal), and that the instrument was executed in behalf of the corporation (or business trust or association) by authority of its board of directors (or board of trustees or trustees); and said A. B. acknowledged the instrument to be the free act and deed of the corporation (or business trust or association)."

[R. L. s. 2684; 1965 c 732 s 6] (6970)

358.13 CORPORATE, BUSINESS TRUST, OR JOINT STOCK ASSOCIATION ACKNOWLEDGMENT; EVIDENCE. Every acknowledgment by or in behalf of a corporation, business trust or joint stock association, made and certified substantially in the form prescribed in section 358.12 shall be prima facie evidence of the facts therein recited, that such instrument was executed by authority of its board of directors or board of trustees or trustees, and that the execution and delivery thereof was authorized by law.

[R. L. s. 2685; 1965 c. 732 s. 7] (6971)

358.14 MARRIED PERSONS. No separate examination of a married woman shall be required, but if husband and wife join in and acknowledge the execution of any instrument, they shall be described in the certificate of acknowledgment as husband and wife; and, if they acknowledge it before different officers, or before the same officer at different times, each shall be described in the certificate as the spouse of the other.

[R. L. s. 2686] (6972)

358.15 BY WHOM TAKEN IN THIS STATE. The following named officers shall have power to take and certify acknowledgments within the state:

(1) Every member of the legislature, so long as he shall remain such and continue to reside in the district from which he was elected; but he shall receive no fee or compensation for so doing. The form of his official signature in such cases shall be: "A.B., Representative (or Senator), District, Minnesota. My term expires January 1, 19.....;"

(2) The judges and clerks and deputy clerks of all courts of record, residing within the state, including those of the circuit and district courts of the United States, and resident United States commissioners;

(3) Notaries public, justices of the peace, and the clerks or recorders of towns, villages, boroughs, and cities; and

(4) Court commissioners, registers of deeds, and county auditors, and their several deputies, and county commissioners, all within their respective counties.

[R. L. s. 2687] (6973)

358.16-358.21 [Obsolete]

358.22 IN OTHER STATES; BY WHOM TAKEN. Deeds or other written instruments affecting property in this state may be acknowledged at any place within the United States, or in any territory belonging thereto, before, and such acknowledgments may be certified by, the following officers:

(1) Any judge or justice of the supreme, circuit, or district court of the United States, or of a court of record of any state, territory, or district therein;

(2) The clerk and deputy clerk of any of these courts;

(3) Any notary public or justice of the peace, or any commissioner appointed by the governor of this state for that purpose.

No acknowledgment, so certified, shall be valid unless taken within the place or territory for which such officer was chosen, or to which the jurisdiction of the court of which he is an officer shall extend.

[R. L. s. 2688] (6977)

358.23 CERTIFICATE, HOW AUTHENTICATED. If any certificate authorized by section 358.22 be signed by a commissioner appointed by the governor of this state, or by a notary public, clerk of court, or other officer having a seal of office, an impression whereof is affixed, no other authentication shall be required. If by an officer appointed by the governor of some other state or territory, and having no official seal, it shall be sufficient if accompanied by the declaration of the secretary of such state or territory, or his assistant or deputy, under the seal thereof, that at the purported date of the acknowledgment the person certifying held the office under which he assumed to act; or, in lieu thereof, the mode of authentication hereinafter prescribed may be used. In all other cases there shall be attached to the certificate a declaration of the clerk or other certifying officer of a court of record of the county or district in which the acknowledgment was taken, under the seal of the court, that he knows the hand-writing of the person who signed the same, that at the time of the purported acknowledgment such person held the office under which he then assumed to act, and that he believes the signature subscribed to the certificate to be genuine.

[R. L. s. 2689] (6978)

358.24 IN FOREIGN COUNTRIES. Such deeds or other instruments may be acknowledged in a foreign country before any notary public therein, or before

any minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in such country, including all deputies or other representatives of such officers authorized to perform their duties. The fact of such acknowledgment shall be certified by the officer taking the same, under his official signature, and his seal of office, if there be one.

[R. L. s. 2690] (6979)

358.25 POWER GIVEN FOR TAKING ACKNOWLEDGMENTS FOR PROTESTING BILLS OF EXCHANGE. Any person authorized to take acknowledgments or administer oaths, who is at the same time an officer, director or stockholder of a corporation, is hereby authorized to take acknowledgments of instruments wherein such corporation is interested, and to administer oaths to any officer, director, or stockholder of such corporation as such, and to protest for non-acceptance or non-payment bills of exchange, drafts, checks, notes and other negotiable or non-negotiable instruments which may be owned or held for collection by such corporation, as fully and effectually as if he were not an officer, director, or stockholder of such corporation.

[1907 c. 406 s. 1; 1915 c. 20 s. 1] (6980)

358.26 EXECUTION ACCORDING TO FOREIGN LAW. All deeds and other instruments may be executed and acknowledged in a foreign country in accordance with the laws of the place of execution.

If the instrument be made out of the state, and in accordance with the laws of the place of execution, the fact that it was executed according to such laws shall be proved as follows:

(1) If within the United States, by the certificate of the clerk or other certifying officer of a court of record of the county or district in which the acknowledgment was taken, under the seal of such court, or by the secretary of the state or territory, under the seal thereof;

(2) If in a foreign country, by the certificate of an officer of the United States authorized by this chapter to take acknowledgments therein, under his seal of office, if there be one;

(3) If there be no such officer of the United States therein, then by the certificate of a consular or diplomatic officer of any other nation with which the United States has diplomatic relations, in which case the seal of such consular or diplomatic officer shall be certified by his foreign office or by the diplomatic representative of such nation in the United States.

Any instrument heretofore or hereafter executed, acknowledged, and certified, as provided herein, shall entitle such instrument to be admitted and read in evidence in all courts and elsewhere without other proof of execution.

[R. L. s. 2691; 1931 c. 201] (6981)

358.27 SOLDIERS AND SAILORS ABROAD. Subdivision 1. **Acknowledgment of person in armed forces; wife.** Any person enlisted, commissioned, or employed in the armed forces of the United States and the wife of any such person, in addition to the acknowledgment of instruments in the manner and form and as otherwise authorized by sections 358.24 and 358.26, may acknowledge the same wherever located before any officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the army or marine corps, or ensign or higher in the navy, or any commissioned officer in active service of any component of the armed forces of the United States as now or hereafter constituted, which officer shall certify thereto over his official signature and title in substantially the form applicable as provided in section 358.26, omitting reference to an official seal. Such certificate shall state that the person so acknowledging is at the time of acknowledgment enlisted or employed in the armed forces of the United States and that the officer taking the acknowledgment is in the active service of the armed forces of the United States. The authentication of acknowledgments provided by section 358.26 is not required. No charge of any character shall be paid to or exacted by any officer taking the acknowledgment.

Subd. 2. **Previous acknowledgments validated.** Any instrument heretofore acknowledged by the wife of any person named in subdivision 1 is hereby legalized and validated.

[R L s 2692; 1943 c 95 s 1; 1947 c 523 s 1] (6982)

358.271 [Obsolete]

358.28-358.31 [Obsolete]