

## CHAPTER 359

### NOTARIES PUBLIC

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#### 359.01 COMMISSION.

Subdivision 1. **Resident notaries.** 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 or resident aliens, over the age of 18 years, resident in the county for which appointed, as the governor deems necessary.

Subd. 2. **Nonresident notaries.** Notwithstanding the provisions of subdivision 1, the governor may appoint as notary public, by and with the advice and consent of the senate, a person who is not a resident of this state and who is not a resident of the county for which appointment is sought if:

(1) the person is a resident of Wisconsin, Iowa, North Dakota, or South Dakota, and of a county that shares a boundary with this state;

(2) the person designates the clerk of the district court of a county of this state that shares a boundary with the county of residence as agent for the service of process for all purposes relating to notarial acts and for receipt of all correspondence relating to notarial acts.

Subd. 3. **Fees.** The fee for each commission shall not exceed \$10.

**History:** *RL s 2656; 1955 c 820 s 44; 1969 c 1148 s 59; 1973 c 725 s 67; 1984 c 504 s 1; 1984 c 609 s 23; 1984 c 654 art 2 s 129 (6937)*

#### 359.02 TERM, BOND, OATH, REAPPOINTMENT.

Every notary so commissioned shall hold office for six 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 \$10,000, 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.

**History:** *RL s 2657; 1953 c 63 s 1; 1984 c 504 s 2 (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.

Subd. 3. The seal of every notary public after January 1, 1972, may be affixed by a stamp that will print a seal which legibly reproduces under photographic methods the seal of the state of Minnesota, the name of the notary, the words "Notary Public", the name of the county for which appointed, and the words "My commission expires .....", with the expiration date shown thereon. The seal shall be a rectangular form of not more than three-fourths of an inch vertically by two and one-half inches horizontally, with a serrated or milled edge border, and shall contain the information required by this subdivision.

**History:** *RL s 2658; 1947 c 42 s 1; 1947 c 372 s 1; 1971 c 251 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.

**History:** *RL 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, except in cases provided in section 359.03, subdivision 3, 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 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...." Except in cases provided in section 359.03, subdivision 3, 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.

**History:** *GS 1866 c 26 s 4; GS 1894 s 2271; 1905 c 48 s 1; 1921 c 430 s 1; 1947 c 372 s 3; 1971 c 251 s 2 (6941)*

#### **359.06 [Repealed, 1976 c 2 s 128]**

**359.061 RECORD OF COMMISSION; CERTIFICATE.**

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 record kept for that purpose. The clerk, when requested, shall certify to his official acts in the manner and for the fees prescribed by statute or court rule.

*History: 1976 c 239 s 109; 1983 c 359 s 46*

**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 359.061, and when so recorded shall be entitled to the same certificate of and from the clerk of the district court as provided in section 359.061.

**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.

*History: 1907 c 323 s 1-3; 1980 c 509 s 142 (6943, 6944, 6945)*

**359.071 CHANGE OF RESIDENCE.**

A notary public who, during his term of office, establishes residency in a county of this state other than the county for which he was appointed, may file with the secretary of state an affidavit identifying the county of current residency, the county for which he is appointed as notary public, and the date of change of residency. If the affidavit is properly filed, the notary shall continue to have the same powers during the unexpired term of his appointment as if he had not changed residence. No new bond is required to be given to the state and the existing bond shall remain valid until the expiration of the commission. The notary public shall be entitled to use his official seal for the remainder of his term.

*History: 1984 c 504 s 3*

**359.08 MISCONDUCT.**

Any notary who shall exercise the duties of his office after the expiration of his term, or when otherwise disqualified, shall be guilty of a misdemeanor.

*History: RL s 2661; 1963 c 753 art 2 s 5 (6946)*

NOTE: See also section 609.65.

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**359.09** [Repealed, 1965 c 811 art 10 s 336.10-102]

**359.10** [Repealed, 1965 c 811 art 10 s 336.10-102]

## **359.11 TAKING DEPOSITIONS.**

In taking depositions, the notary shall have the power to compel the attendance of and to punish witnesses for refusing to testify as provided by statute or court rule. All sheriffs and constables shall serve and return all process issued by any notary in taking depositions.

**History:** *RL s 2664; 1983 c 359 s 47 (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.

**History:** *RL s 2665 (6950)*