

## CHAPTER 358

### SEALS, OATHS, ACKNOWLEDGMENTS

358.15 Ex officio notary public.  
 358.32 Repealed.  
 358.33 Repealed.  
 358.34 Repealed.  
 358.35 Repealed.  
 358.36 Repealed.  
 358.37 Repealed.  
 358.38 Repealed.  
 358.39 Repealed.  
 358.40 Repealed.

358.41 Definitions.  
 358.42 Notarial acts.  
 358.43 Notarial acts in this state.  
 358.44 Notarial acts in other jurisdictions of the United States.  
 358.45 Notarial acts under federal authority.  
 358.46 Foreign notarial acts.  
 358.47 Certificate of notarial acts.  
 358.48 Short forms.  
 358.49 Short title.

#### 358.15 EX OFFICIO NOTARY PUBLIC.

The following officers have the powers of a notary public within the state:

(1) every member of the legislature, while still a resident in the district from which elected; but no fee or compensation may be received for exercising these powers. The form of the official signature in these cases is: "A.B., Representative (or Senator), ..... District, Minnesota, ex officio notary public. My term expires January 1, 19.....;"

(2) the clerks or recorders of towns, and cities; and

(3) court commissioners, county recorders, and county auditors, and their several deputies, and county commissioners, all within their respective counties.

**History:** 1985 c 268 s 1

358.32 [Repealed, 1985 c 268 s 12]  
 358.33 [Repealed, 1985 c 268 s 12]  
 358.34 [Repealed, 1985 c 268 s 12]  
 358.35 [Repealed, 1985 c 268 s 12]  
 358.36 [Repealed, 1985 c 268 s 12]  
 358.37 [Repealed, 1985 c 268 s 12]  
 358.38 [Repealed, 1985 c 268 s 12]  
 358.39 [Repealed, 1985 c 268 s 12]  
 358.40 [Repealed, 1985 c 268 s 12]

#### 358.41 DEFINITIONS.

As used in sections 358.41 to 358.49:

(1) "Notarial act" means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

(2) "Acknowledgment" means a declaration by a person that the person has executed an instrument for the purposes stated therein 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 therein.

(3) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

(4) "In a representative capacity" means:

(i) for and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(ii) as a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(iii) as an attorney in fact for a principal; or

(iv) in any other capacity as an authorized representative of another.

(5) "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

**History:** 1985 c 268 s 2

### 358.42 NOTARIAL ACTS.

(a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

(b) 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.

(c) 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 therein.

(d) In certifying or attesting a copy of a document or other item, the notarial officer must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(e) In making or noting a protest of a negotiable instrument the notarial officer must determine the matters set forth in section 336.3-509.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person (i) is personally known to the notarial officer, (ii) is identified upon the oath or affirmation of a credible witness personally known to the notarial officer, or (iii) is identified on the basis of identification documents.

**History:** 1985 c 268 s 3

### 358.43 NOTARIAL ACTS IN THIS STATE.

(a) A notarial act may be performed within this state by the following persons:

(1) a notary public of this state,

(2) a judge, clerk, or deputy clerk of any court of this state,

(3) a person authorized by the law of this state to administer oaths, or

(4) any other person authorized to perform the specific act by the law of this state.

(b) Notarial acts performed within this state under federal authority as provided in section 358.45 have the same effect as if performed by a notarial officer of this state.

(c) 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.

**History:** 1985 c 268 s 4

**358.44 NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES.**

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

- (1) a notary public of that jurisdiction;
- (2) a judge, clerk, or deputy clerk of a court of that jurisdiction; or
- (3) any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in this section have the same effect as if performed by a notarial officer of this state.

(c) 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.

(d) The signature and indicated title of an officer listed in subsection (a)(1) or (a)(2) conclusively establish the authority of a holder of that title to perform a notarial act.

**History:** 1985 c 268 s 5

**358.45 NOTARIAL ACTS UNDER FEDERAL AUTHORITY.**

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

- (1) a judge, clerk, or deputy clerk of a court;
- (2) a commissioned officer on active duty in the military service of the United States;

(3) an officer of the foreign service or consular officer of the United States; or

(4) any other person authorized by federal law to perform notarial acts.

(b) 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.

(c) The signature and indicated title of an officer listed in subsection (a)(1), (a)(2), or (a)(3) conclusively establish the authority of a holder of that title to perform a notarial act.

**History:** 1985 c 268 s 6

**358.46 FOREIGN NOTARIAL ACTS.**

(a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if 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:

- (1) a notary public or notary;
- (2) a judge, clerk, or deputy clerk of a court of record; or
- (3) any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) 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.

(c) 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.

(d) 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.

(e) An official stamp or seal of an officer listed in subsection (a)(1) or (a)(2) is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

(f) 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.

**History:** 1985 c 268 s 7

### 358.47 CERTIFICATE OF NOTARIAL ACTS.

(a) 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 may include the official stamp or seal of office. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of subsection (a) and it:

(1) is in the short form set forth in section 358.48;

(2) is in a form otherwise prescribed by the law of this state;

(3) is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(4) sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 358.42.

**History:** 1985 c 268 s 8

### 358.48 SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 358.47, subsection (a):

(1) For an acknowledgment in an individual capacity;

State of .....

County of .....

This instrument was acknowledged before me on .....(date) by .....

..... (names(s) of person(s)).

(Seal, if any)

.....  
(Signature of notarial officer).....  
Title (and Rank)

My commission expires: .....

## (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 the instrument was executed).

.....  
(Signature of notarial officer)

(Seal, if any)

.....  
Title (and Rank)

My commission expires: .....

## (3) For a verification upon oath or affirmation:

State of .....

County of .....

Signed and sworn to (or affirmed) before me on .....(date) by .....  
 ..... (name(s) of person(s) making statement).

.....  
(Signature of notarial officer)

(Seal, if any)

.....  
Title (and Rank)

My commission expires: .....

## (4) For witnessing or attesting a signature:

State of .....

County of .....

Signed or attested before me on .....(date) by .....(name(s) of per-  
 son(s)).

.....  
(Signature of notarial officer)

(Seal, if any)

.....  
Title (and Rank)

My commission expires: .....

## (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: .....

(Seal, if any)

.....  
(Signature of notarial officer)

.....  
Title (and Rank)  
My commission expires: .....

**History:** 1985 c 268 s 9

**358.49 SHORT TITLE.**

Sections 358.41 to 358.49 may be cited as the uniform law on notarial acts.

**History:** 1985 c 268 s 10