

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.

History: (6933) *RL s 2652*

358.02 [Repealed, 1983 c 119 s 4]**358.028 LEGISLATORS, OFFICIAL SEALS.**

Every member of the legislature, while in office and residing in the district from which elected, may have an official seal, in the form provided in section 358.03, with which to authenticate official acts provided for in section 358.15.

History: 1955 c 72 s 1; 1986 c 444

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.

History: (6935) *RL s 2654; 1947 c 199 s 1*

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.

History: (6936) *RL s 2655*

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 IV, section 8. 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 V, section 6.

History: (6963) *RL s 2677; 1976 c 2 s 172*

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 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."

History: (6964) *RL s 2678; 1986 c 444*

358.07 FORMS OF OATH IN VARIOUS CASES.

An oath substantially in the following forms shall be administered to the respective officers and persons hereinafter 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 person, 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 the witness, and the testimony the witness 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."

History: (6965) *RL s 2679; 1986 c 444*

358.08 AFFIRMATION IN LIEU OF OATH.

If any person of whom an oath is required shall claim 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.

History: (6966) *RL s 2680; 1986 c 444*

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 the officer's signature, and the seal of 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.

History: (6967) *RL s 2681; 1986 c 444*

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 committee members, 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.

History: (6968) *RL s 2682; 1986 c 444*

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 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 court administrator of such court;

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

History: (6969) *RL s 2683; 1973 c 123 art 5 s 7; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

358.12 [Repealed, 1973 c 116 s 10]

358.13 [Repealed, 1973 c 116 s 10]

358.14 MARRIED PERSONS.

No separate examination of each spouse 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.

History: (6972) *RL s 2686; 1987 c 49 s 10*

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: (6973) *RL s 2687; 1973 c 123 art 5 s 7; 1976 c 181 s 2; 1983 c 359 s 45; 1985 c 268 s 1*

358.16-358.21 [Obsolete]

358.22 [Repealed, 1973 c 116 s 10]

358.23 [Repealed, 1973 c 116 s 10]

358.24 [Repealed, 1973 c 116 s 10]

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 nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable or nonnegotiable instruments which may be owned or held for collection by such corporation, as fully and effectually as if the person were not an officer, director, or stockholder of such corporation.

History: (6980) *1907 c 406 s 1; 1915 c 20 s 1; 1986 c 444*

358.26 [Repealed, 1973 c 116 s 10]

358.27 [Repealed, 1973 c 116 s 10]

358.271 [Obsolete]

358.28-358.31 [Obsolete]

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 court administrator, or deputy clerk or court administrator 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; 1Sp1986 c 3 art 1 s 82

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 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.

(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; 1Sp1986 c 3 art 1 s 47

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.

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(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(name(s) of person(s)).

..... (Signature of notarial officer) (Seal, if any) Title (and Rank)

My commission expires:

.....
(Signature of notarial officer)

(Seal, if any)

.....
Title (and Rank)

My commission expires:

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(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 person(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:

.....
(Signature of notarial officer)

(Seal, if any)

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

History: 1985 c 268 s 9

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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

358.50 EFFECT OF ACKNOWLEDGMENT.

An acknowledgment made in a representative capacity for and on behalf of a corporation, partnership, trust, or other entity and certified substantially in the form prescribed in this chapter is prima facie evidence that the instrument was executed and delivered with proper authority.

History: 1987 c 26 s 1