Notary Public License Law

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New York
DEPARTMENT OF STATE
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Introduction

Notaries public are commissioned by the Secretary of State. An applicant for a notary public commission must submit to the Division of Licensing Services an original application and $60 fee. The application includes an oath of office, which must be sworn and notarized. In addition to the application form and fee, the applicant must submit a "pass slip" showing that s/he has taken and passed the notary public examination. Examinations are regularly scheduled throughout the state. An individual admitted to practice in NYS as an attorney, may be appointed a notary public without an examination. The term of commission is 4 years.

Notaries public are commissioned in their counties of residence. After receiving and approving an applicant for a notary public commission, the Secretary of State forwards the commission, the original oath of office and the signature of the notary public to the appropriate county clerk. The county clerk maintains a record of the commission and signature. The public may then access this record and verify the "official" signature of the notary at the county clerk's office.

Upon request, county clerks will authenticate the signature of the notary on a document and will attest to the notary's authority to sign. This is normally obtained when the documents will be used outside the State. Notaries who expect to sign documents regularly in counties other than that of their residence may elect to file a certificate of official character with other New York State county clerks.

Out-of-State Residents. Attorneys, residing out of State, who are admitted to practice in the State and who maintain a law office within the State are deemed to be residents of the county where the office is maintained. Nonresidents other than attorneys who have offices or places of business in New York State may also become notaries. The oath of office and signature of the notary must be filed in the office of the county clerk of the county in which the office or place of business is located.

Notary Public License Law

Section	
	Professional conduct
	APPOINTMENT AND QUALIFICATIONS EXECUTIVE LAW
130	Appointment of notaries public
131	Procedure of appointment; fees and commissions
132	Certificates of official character of notaries public
133	Certification of notarial signatures
140	Executive Law (14) and (15)
3-200 and 3-400	Election Law
	PUBLIC OFFICERS LAW
3	Qualifications for holding office, provides that:
	COUNTY LAW
534	County clerk; appointment of notaries public
	MISCELLANEOUS
	Member of legislature
	Sheriffs
	Notary public—disqualifications
	POWERS AND DUTIES EXECUTIVE LAW
134	Signature and seal of county clerk
135	Powers and duties; in general; of notaries public who are attorneys at law
135-a	Notary public or commissioner of deeds; acting without appointment; fraud in office
135-b	Advertising by notaries public
135-c	Electronic notarization
136	Notarial fees
137	Statement as to authority of notaries public
138	Powers of notaries public or other officers who are stockholders, directors, officers or employees of a corporation
142-a	Validity of facts of notaries public and commissioners of deeds notwithstanding certain defects
	REAL PROPERTY LAW
290	Definitions; effect of article
298	Acknowledgments and proofs within the state
302	Acknowledgments and proofs by married women
303	Requisites of acknowledgments
304	Proof by subscribing witness
306	Certificate of acknowledgment or proof
309-a	Uniform forms of certificates of acknowledgment or proof within this state
309-b	Uniform forms of certificates of acknowledgment or proof without this state
330	Officers guilty of malfeasance liable for damages
333	When conveyances of real property not to be recorded
	SPECIAL NOTE
335	Banking Law
3113	Rule—Civil Practice Law and Rules
11	Domestic Relations Law
10	Public Officers Law
	RESTRICTIONS AND VIOLATIONS JUDICIARY LAW
484	None but attorneys to practice in the state
485	Violation of certain preceding sections a misdemeanor
750	Power of courts to punish for criminal contempts
	Illegal practice of law by notary public
	Wills
	PUBLIC OFFICERS LAW
67	Fees of public officers
69	Fee for administering certain official oaths prohibited
	EXECUTIVE LAW
	Misconduct by a notary and removal from office

PENAL LAW

70.00	Sentence of imprisonment for felony
70.15	Sentences of imprisonment for misdemeanors and violation
170.10	Forgery in the second degree
175.40	Issuing a false certificate
195.00	Official misconduct
	Notary must officiate on request
	Perjury

Notaries Public

Title 19 NYCRR, Part 182

Section	
182.1	Notaries Public
182.2	Definitions
182.3	Requirements for Notarial Acts
182.4	Additional Requirements for Electronic Notarial Acts
182.5	Satisfactory Evidence of Identity
182.6	Credential Analysis
182.7	Identity Proofing
182.8	Communication Technology
182.9	Recordkeeping and Reporting
182.10	Applications, Registrations and Renewals
182.11	Fees

Definitions and General Terms

Professional Conduct

Use of the office of notary in other than the specific, step-by-step procedure required is viewed as a serious offense by the Secretary of State. The practice of taking acknowledgments and affidavits over the telephone, or otherwise, without the actual, personal appearance of the individual making the acknowledgment or affidavit before the officiating notary, is illegal.

The attention of all notaries public is called to the following judicial declarations concerning such misconduct:

> "The court again wishes to express its condemnation of the acts of notaries taking acknowledgments or affidavits without the presence of the party whose acknowledgment is taken for the affiant, and that it will treat serious professional misconduct the act of any notary thus violating his official duty." (*Matter of Napolis*, 169 App. Div. 469, 472.)
>
> "Upon the faith of these acknowledgments rests the title of real property, and the only security to such titles is the fidelity with which notaries and commissioners of deeds perform their duty in requiring the appearance of parties to such instruments before them and always refusing to execute a certificate unless the parties are actually known to them or the identity of the parties executing the instruments is satisfactorily proved." (*Matter of Gottheim*, 153 App. Div. 779, 782.)

Equally unacceptable to the Secretary of State is slipshod administration of oaths. **The simplest form in which an oath may be lawfully administered is:**

> **"Do you solemnly swear that the contents of this affidavit subscribed by you is correct and true?"** (*Bookman* v. *City of New York*, 200 N.Y. 53, 56.)
>
> Alternatively, the following affirmation may be used for persons who conscientiously decline taking an oath. This affirmation is legally equivalent to an oath and is just as binding:
>
> **"Do you solemnly, sincerely and truly declare and affirm that the statements made by you are true and correct?"**
>
> Whatever the form adopted, it must be in the presence of an officer authorized to administer it, and it must be an unequivocal and present act by which the affiant consciously takes upon himself the obligation of an oath. (Idem, citing People ex rel. Kenyon v. Sutherland, 81 N.Y. 1; *O'Reilly* v. *People*, 86 N.Y. 154, 158, 161.)

Unless a lawyer, the notary public may not engage directly or indirectly in the practice of law. Listed below are some of the activities involving the practice of law which are prohibited, and which subject the notary public to removal from office by the Secretary of State, and possible imprisonment, fine or both. A notary:

1. May not give advice on the law. The notary may not draw any kind of legal papers, such as wills, deeds, bills of sale, mortgages, chattel mortgages, contracts, leases, offers, options, incorporation papers, releases, mechanics liens, power of attorney, complaints and all legal pleadings, papers in summary proceedings to evict a tenant, or in bankruptcy, affidavits, or any papers which our courts have said are legal documents or papers.

2. May not ask for and get legal business to send to a lawyer or lawyers with whom he has any business connection or from whom he receives any money or other consideration for sending the business.

3. May not divide or agree to divide his fees with a lawyer, or accept any part of a lawyer's fee on any legal business.

4. May not advertise in, or circulate in any manner, any paper or advertisement, or say to anyone that he has any powers or rights not given to the notary by the laws under which the notary was appointed.

A notary public is cautioned not to execute an acknowledgment of the execution of a will. Such acknowledgment cannot be deemed equivalent to an attestation clause accompanying a will.

(*See definition of Attestation Clause*)

Appointment and Qualifications

Index

Law	Sec	Subject
Executive Law	130	Appointment of Notaries Public
Executive Law	131	Procedure of Appointment; Fees
Executive Law	132	Certificates of Official Character
Executive Law	133	Certification of Notarial Signatures
Executive Law	140	Commissioner of Deeds, NYC
Election Law	3-200 3-400	Commissioner of Elections
Public Officers Law	3	Qualifications for Holding Office
County Law	534	County Clerk; Appointment of Notaries
NYS Constitution	Art. II Sec. 7	Member of Legislature
NYS Constitution	Art. XII Sec. 13a	Sheriffs
Miscellaneous		Disqualifications

Executive Law

§130. Appointment of notaries public.

1. The Secretary of State may appoint and commission as many notaries public for the State of New York as in his or her judgment may be deemed best, whose jurisdiction shall be co-extensive with the boundaries of the state. The appointment of a notary public shall be for a term of 4 years. An application for an appointment as notary public shall be in form and set forth such matters as the Secretary of State shall prescribe. Every person appointed as notary public must, at the time of his or her appointment, be a resident of the State of New York or have an office or place of business in New York State. A notary public who is a resident of the State and who moves out of the state but still maintains a place of business or an office in New York State does not vacate his or her office as a notary public. A notary public who is a nonresident and who ceases to have an office or place of business in this state, vacates his or her office as a notary public. A notary public who is a resident of New York State and moves out of the state and who does not retain an office or place of business in this State shall vacate his or her office as a notary public. A non-resident who accepts the office of notary public in this State thereby appoints the Secretary of State as the person upon whom process can be served on his or her behalf. Before issuing to any applicant a commission as notary public, unless he or she be an attorney and counselor at law duly admitted to practice in this state or a court clerk of the Unified Court System who has been appointed to such position after taking a Civil Service promotional examination in the court clerk series of titles, the Secretary of State shall satisfy himself or herself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public; provided, however, that where a notary public applies, before the expiration of his or her term, for reappointment with the county clerk or where a person whose term as notary public shall have expired applies within 6 months thereafter for reappointment as a notary public with the county clerk, such qualifying requirements may be waived by the Secretary of State, and further, where an application for reappointment is filed with the county clerk after the expiration of the aforementioned

renewal period by a person who failed or was unable to re-apply by reason of his or her induction or enlistment in the armed forces of the United States, such qualifying requirements may also be waived by the Secretary of State, provided such application for reappointment is made within a period of 1 year after the military discharge of the applicant under conditions other than dishonorable, or if the applicant has a qualifying condition, as defined in section one of the veterans' services law, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service, or if the applicant is a discharged LGBT veteran, as defined in section one of the veterans' services law, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service. In any case, the appointment or reappointment of any applicant is in the discretion of the Secretary of State. The Secretary of State may suspend or remove from office, for misconduct, any notary public appointed by him or her but no such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. No person shall be appointed as a notary public under this article who has been convicted, in this State or any other state or territory, of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to appointment.

2. A person regularly admitted to practice as an attorney and counselor in the courts of record of this state, whose office for the practice of law is within the State, may be appointed a notary public and retain his office as such notary public although he resides in or removes to an adjoining state. For the purpose of this and the following sections of this article such person shall be deemed a resident of the county where he maintains such office.

§131. Procedure of appointment; fees and commissions.

1. Applicants for a notary public commission shall submit to the Secretary of State with their application the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

2. Upon being satisfied of the competency and good character of applicants for appointment as notaries public, the Secretary of State shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

3. The Secretary of State shall receive a non-refundable application fee of $60 from applicants for appointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

4. A notary public identification card indicating the appointee’s name, address, county and commission term shall be transmitted to the appointee.

5. The commission, duly dated, and a certified copy or the original of the oath of office and the official signature, and $20 apportioned from the application fee shall be transmitted by the Secretary of State to the county clerk in which the appointee resides by the 10th day of the following month.

6. The county clerk shall make a proper index of commissions and official signatures transmitted to that office by the Secretary of State pursuant to the provisions of this section.

7. Applicants for reappointment of a notary public commission shall submit to the Secretary of State with their application the oath of office, duly executed before any person authorized to administer an oath, together with their signature.

8. Upon being satisfied of the completeness of the application for reappointment, the Secretary of State shall issue a commission to such persons; and the official signature of the applicants and the oath of office filed with such applications shall take effect.

9. The Secretary of State shall receive a non-refundable application fee of $60 from each applicant for reappointment, which fee shall be submitted together with the application. No further fee shall be paid for the issuance of the commission.

10. The commission, duly dated, and a certified or original copy of the oath of office and the official signature, and $20 apportioned from the application fee plus interest as may be required by statute shall be transmitted by the Secretary of State to the county clerk of the county in which the appointee resides by the tenth day of the following month. Transmission may be accomplished by electronic means that results in a submission of such records and fees by the Secretary of State to the county clerk.

11. The county clerk shall make a proper record of commissions transmitted to that office by the Secretary of State pursuant to the provisions of this section.

12. Except for changes made in an application for reappointment, the Secretary of State shall receive a non-refundable fee of $10 for changing the name or address of a notary public.

13. The Secretary of State may issue a duplicate identification card to a notary public for one lost, destroyed or damaged upon application therefor on a form prescribed by the Secretary of State and upon payment of a non-refundable fee of $10. Each such duplicate identification card shall have the word “duplicate” stamped across the face thereof, and shall bear the same number as the one it replaces.

§132. Certificates of official character of notaries public.

The Secretary of State or the county clerk of the county in which the commission of a notary public is filed may certify to the official character of such notary public and any notary public may file their autograph signature and a certificate of official character in the office of any county clerk of any county in the state and in any register's office in any county having a register and thereafter such county clerk may certify as to the official character of such notary public. The Secretary of State shall collect for each certificate of official character issued the sum of one dollar. The county clerk and register of any county with whom a certificate of official character has been filed shall collect for filing the same the sum of ten dollars. For each certificate of official character issued, with seal attached, by any county clerk, the sum of five dollars shall be collected.

§133. Certification of notarial signatures.

The county clerk of a county in whose office any notary public has qualified or has filed his autograph signature and a certificate of his official character, shall, when so requested and upon payment of a fee of $3 affix to any certificate of proof or acknowledgment or oath signed by such notary anywhere in the State of New York, a certificate under his hand and seal, stating that a commission or a certificate of his official character with his autograph signature has been filed in his office, and that he was at the time of taking such proof or acknowledgment or oath duly authorized to take the same; that he is well acquainted with the handwriting of such notary public or has compared the signature on the certificate of proof or acknowledgment or oath with the autograph signature deposited in his office by such notary public and believes that the signature is genuine. An instrument with such certificate of

authentication of the county clerk affixed thereto shall be entitled to be read in evidence or to be recorded in any of the counties of this State in respect to which a certificate of a county clerk may be necessary for either purpose.

§140. Executive Law.

14. No person who has been removed from office as a commissioner of deeds for the City of New York, as hereinbefore provided, shall thereafter be eligible again to be appointed as such commissioner nor, shall he be eligible thereafter to appoint to the office of notary public.

15. Any person who has been removed from office as aforesaid, who shall, after knowledge of such removal, sign or execute any instrument as a commissioner of deeds or notary public shall be deemed guilty of a misdemeanor.

§3-200 and 3-400. Election Law.

A commissioner of elections or inspector of elections is eligible for the office of notary public.

§3. Public Officers Law.

No person is eligible for the office of notary public who has been convicted of a violation of the selective draft act of the U.S. enacted May 18, 1917, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of 1940 or the acts amendatory thereof or supplemental thereto.

§534. County Law.

Each county clerk shall designate from among the members of his or her staff at least one notary public to be available to notarize documents for the public in each county clerk's office during normal business hours free of charge. Each individual appointed by the county clerk to be a notary public pursuant to this section shall be exempt from the examination fee and application fee required by §131 of the Executive Law.

Miscellaneous

Member of legislature.

"If a member of the legislature be *** appointed to any office, civil *** under the government *** the State of New York *** his or her acceptance thereof shall vacate his or her seat in the legislature, providing, however, that a member of the legislature may be appointed *** to any office in which he or she shall receive no compensation." (§7 of Article III of the Constitution of the State of New York.) A member of the legislature may be appointed a notary public in view of transfer of power of such appointment from the governor and senate to the Secretary of State. (1927, Op. Atty. Gen. 97.)

Sheriffs.

*** Sheriffs shall hold no other office. *** (§13(a) of Article XIII of the Constitution of the State of New York.)

Notary public—disqualifications.

Though a person may be eligible to hold the office of notary the person may be disqualified to act in certain cases by reason of having an interest in the case. To state the rule broadly: if the notary is a party to or directly and pecuniarily interested in the transaction, the person is not capable of acting in that case. For example, a notary who is a grantee or mortgagee in a conveyance or mortgage is disqualified to take the acknowledgment of the grantor or mortgagor; likewise a notary who is a trustee in a deed of trust; and, of course, a notary who is the grantor could not take his own acknowledgment. A notary beneficially interested in the conveyance by way of being secured thereby is not competent to take the acknowledgment of the instrument. In New York the courts have held an acknowledgment taken by a person financially or beneficially interested in a party to conveyance or instrument of which it is a part to be a nullity; and that the acknowledgment of an assignment of a mortgage before one of the assignees is a nullity; and that an acknowledgment by one of the incorporators of the other incorporators who signed a certificate was of no legal effect.

Powers and Duties

Index

Law	Sec	Subject
Executive Law	134	Signature and Seal of County Clerk
Executive Law	135	Powers and Duties
Executive Law	135a	Acting Without Appointment, Fraud in Office
Executive Law	136	Notarial Fees
Executive Law	137	Statement as to authority
Executive Law	138	Powers of Notaries - Corporations
Executive Law	142-a	Validity of facts
Real Property Law	290	Definitions
Real Property Law	298	Acknowledgments and Proofs within the State
Real Property Law	302	Acknowledgments and Proofs By Married Women
Real Property Law	303	Requisites of Acknowledgments
Real Property Law	304	Proof by Subscribing Witness
Real Property Law	306	Certificate of Acknowledgment or Proof
Real Property Law	309	Acknowledgment by Corporation
Real Property Law	330	Officers Guilty of Malfeasance
Real Property Law	333	When Conveyances Not to Be Recorded
Banking Law	335	Unpaid Rental of Safe Deposit Box
Civil Practice Law and Rules	3113	Taking of Deposition by Notary
Domestic Relation	S11	No Authority to Solemnize Marriage
Public Officers	10	Administering Oath of Public Officer

Executive Law

§134. Signature and seal of county clerk.

The signature and seal of a county clerk, upon a certificate of official character of a notary public or the signature of a county clerk upon a certificate of authentication of the signature and acts of a notary public or commissioner of deeds, may be a facsimile, printed, stamped, photographed or engraved thereon.

§135. Powers and duties; in general; of notaries public who are attorneys at law.

Every notary public duly qualified is hereby authorized and empowered within and throughout the State to administer oaths and affirmations, to take affidavits and depositions, to receive and certify acknowledgments or proof of deeds, mortgages and powers of attorney and other instruments in writing; to demand acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and to protest the same for non-acceptance or non-payment, as the case may require, and, for use in another jurisdiction, to exercise such other powers and duties as by the laws of nations and according to commercial usage, or by the laws of any other government or country may be exercised and performed by

notaries public, provided that when exercising such powers he shall set forth the name of such other jurisdiction.

A notary public who is an attorney at law regularly admitted to practice in this State may, in his discretion, administer an oath or affirmation to or take the affidavit or acknowledgment of his client in respect of any matter, claim, action or proceeding.

For any misconduct by a notary public in the performance of any of his powers such notary public shall be liable to the parties injured for all damages sustained by them. A notary public shall not, directly or indirectly, demand or receive for the protest for the non-payment of any note, or for the non-acceptance or non-payment of any bill of exchange, check or draft and giving the requisite notices and certificates of such protest, including his notarial seal, if affixed thereto, any greater fee or reward than 75 cents for such protest, and 10 cents for each notice, not exceeding five, on any bill or note. Every notary public having a seal shall, except as otherwise provided, and when requested, affix his seal to such protest free of expense.

§135-a. Notary public or commissioner of deeds; acting without appointment; fraud in office.

1. Any person who holds himself out to the public as being entitled to act as a notary public or commissioner of deeds, or who assumes, uses or advertises the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the impression that he is a notary public or commissioner of deeds without having first been appointed as notary public or commissioner of deeds, or

2. A notary public or commissioner of deeds, who in the exercise of the powers, or in the performance of the duties of such office shall practice any fraud or deceit, the punishment for which is not otherwise provided for by this act, shall be guilty of a misdemeanor.

§135-b. Advertising by notaries public.

1. The provisions of this section shall not apply to attorneys-at-law, admitted to practice in the state of New York.

2. A notary public who advertises his or her services as a notary public in a language other than English shall post with such advertisement a notice in such other language the following statement: “I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice.”

3. A notary public shall not use terms in a foreign language in any advertisement for his or her services as a notary public that mean or imply that the notary public is an attorney licensed to practice in the state of New York or in any jurisdiction of the United States. The secretary shall designate by rule or regulation the terms in a foreign language that shall be deemed to mean or imply that a notary public is licensed to practice law in the state of New York and the use of which shall be prohibited by notary publics who are subject to this section.

4. For purposes of this section, “advertisement” shall mean and include material designed to give notice of or to promote or describe the services offered by a notary public for profit and shall include business cards, brochures, and notices, whether in print or electronic form.

5. Any person who violates any provision of this section or any rule or regulation promulgated by the secretary may be liable for civil penalty of up to one thousand dollars. The secretary of state may suspend a notary public upon a second violation of any of the provisions of this section and may remove from office a notary public upon a third violation of any of the provisions of this section, provided that the notary public shall have been served with a copy of the charges against him or her and been given an opportunity to be heard. The civil penalty provided for by this subdivision shall be recoverable in an action instituted by the attorney general on his or her own initiative or at the request of the secretary.

6. The secretary may promulgate rules and regulations governing the provisions of this section, including the size and type of statements that a notary public is required by this section to post.

§ 135–c. Electronic notarization

1. Definitions.

(a) “Communication technology” means an electronic device or process that: (i) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and (ii) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(b) “Electronic” shall have the same meaning as set forth in subdivision one of section three hundred two of the state technology law.

(c) “Electronic record” means information that is created, generated, sent, communicated, received or stored by electronic means.

(d) “Electronic notarial act” means an official act by a notary public, physically present in the state of New York, on or involving an electronic record and using means authorized by the secretary of state.

(e) “Electronic notary public” or “electronic notary” means a notary public who has registered with the secretary of state the capability of performing electronic notarial acts.

(f) “Electronic signature” shall have the same meaning as set forth in subdivision three of section three hundred two of the state technology law.

(g) “Principal” means an individual:

(i) whose signature is reflected on a record that is notarized;

(ii) who has taken an oath or affirmation administered by a notary public; or

(iii) whose signature is reflected on a record that is notarized after the individual has taken an oath or affirmation administered by a notary public.

(h) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

2. Any notary public qualified under this article is hereby authorized to perform an electronic notarial act by utilizing audio-video communication technology that allows the notary public to interact with a principal, provided that all conditions of this section are met.

(a) The methods for identifying document signers for an electronic notarization shall be the same as the methods required for a paper-based notarization; provided, however, an electronic notarial act conducted utilizing communication technology shall meet the standards which have been approved through regulation by the secretary of state as acceptable. Such regulations shall include, but not be limited to:

(i) that the signal transmission shall be secure from interception through lawful means by anyone other than the persons communicating;

(ii) that the communication technology shall permit the notary public to communicate with the principal live, in real time;

(iii) that the communication technology shall permit the notary to communicate with and identify the remotely located individual at the time of the notarial act; and

(iv) a standard that requires two or more different processes for authenticating the identity of a remotely located individual utilizing

technology to detect and deter fraud, but which may allow a notary public's personal knowledge of a document signer to satisfy such requirement.

(b) If video and audio conference technology has been used to ascertain a document signer's identity, the electronic notary shall keep a copy of the recording of the video and audio conference and a notation of the type of any other identification used. The recording shall be maintained for a period of at least ten years from the date of transaction.

3. Registration requirements.

(a) Before performing any electronic notarial act or acts, a notary public shall register the capability to notarize electronically with the secretary of state on a form prescribed by the secretary of state and upon payment of a fee which shall be set by regulation.

(b) In registering the capability to perform electronic notarial acts, the notary public shall provide the following information to the secretary of state, notary processing unit:

(i) the applicant's name as currently commissioned and complete mailing address;

(ii) the expiration date of the notary public's commission and signature of the commissioned notary public;

(iii) the applicant's e-mail address;

(iv) the description of the electronic technology or technologies to be used in attaching the notary public's electronic signature to the electronic record; and

(v) an exemplar of the notary public's electronic signature, which shall contain the notary public's name and any necessary instructions or techniques that allow the notary public's electronic signature to be read.

4. Types of electronic notarial acts.

(a) Any notarial act authorized by section one hundred thirty-five of this article may be performed electronically as prescribed by this section if: (i) for execution of any instrument in writing, under applicable law that document may be signed with an electronic signature and the notary public is reasonably able to confirm that such instrument is the same instrument in which the principal made a statement or on which the principal executed a signature; and (ii) the electronic notary public is located within the state of New York at the time of the performance of an electronic notarial act using communication technology, regardless of the location of the document signer. If the principal is outside the United States, the record or subject of the notarial act:

(1) is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(2) shall involve property located in the territorial jurisdiction of the United States or shall involve a transaction substantially connected with the United States.

(b) An electronic notarial act performed using communication technology pursuant to this section satisfies any requirement of law of this state that a document signer personally appear before, be in the presence of, or be in a single time and place with a notary public at the time of the performance of the notarial act.

5. Form and manner of performing the electronic notarial act.

(a) When performing an electronic notarial act relating to execution of instruments in writing, a notary public shall apply an electronic signature, which shall be attached to the electronic record such that removal or alteration of such electronic signature is detectable and will render evidence of alteration of the document containing the notary signature which may invalidate the electronic notarial act.

(b) The notary public's electronic signature is deemed to be reliable if the standards which have been approved through regulation by the secretary of state have been met. Such regulations shall include, but not be limited to, the requirements that such electronic signature be:

(i) unique to the notary public;

(ii) capable of independent verification;

(iii) retained under the notary public's sole control;

(iv) attached to the electronic record; and

(v) linked to the data in such a manner that any subsequent alterations to the underlying document are detectable and may invalidate the electronic notarial act.

(c) The notary public's electronic signature shall be used only for the purpose of performing electronic notarial acts.

(d) The remote online notarial certificate for an electronic notarial act shall state that the person making the acknowledgement or making the oath appeared through use of communication technology.

(e) The secretary shall adopt rules necessary to establish standards, procedures, practices, forms, and records relating to a notary public's electronic signature. The notary public's electronic signature shall conform to any standards adopted by the secretary.

6. Recording of an electronic record.

(a) If otherwise required by law as a condition for recording that a document be an original document, printed on paper or another tangible medium, or be in writing, the requirement is satisfied by paper copy of an electronic record that complies with the requirements of this section.

(b) If otherwise required by law as a condition for recording, that a document be signed, the requirement may be satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature if the notary has attached an electronic notarial certificate that meets the requirements of this section.

(d)

(i) A notary public may certify that a tangible copy of the signature page and document type of an electronic record remotely notarized by such notary public is an accurate copy of such electronic record. Such certification must (1) be dated and signed by the notary public in the same manner as the official signature of the notary public provided to the secretary of state pursuant to section one hundred thirty-one of this article, and (2) comply with section one hundred thirty-seven of this article.

(ii) A county clerk, city registrar, or other recording officer where applicable shall accept for recording a tangible copy of an electronic record and that is otherwise eligible to be recorded under the laws of this state if the record has been certified by a notary public or other individual authorized to perform a notarial act.

(iii) A certification in substantially the following form is sufficient for the purposes of this subdivision:

CERTIFICATE OF AUTHENTICITY

State of New York)

) ss.:

County of)

On this ..... day of ..... in the year ....., I certify that the signature page of the attached record (entitled .....) (dated .....) is a true and correct copy of the signatures affixed to an electronic record printed by me or under my supervision. I further certify that, at the time of printing, no security features present on the electronic record indicated any changes or errors in an electronic signature in the electronic record after its creation or execution.

(Signature and title of notary public)

(official stamp or registration number, with the expiration date of the notary public's commission)

7. Change of e-mail address. Within five days after the change of an electronic notary public's e-mail address, the notary public shall electronically transmit to the secretary of state a notice of the change, signed with the notary public's official electronic signature.

8. No notary public or business employing the services of a notary public operating in the state of New York shall exclusively require notarial transactions to utilize electronic notarization.

9. Nothing in this section shall be construed as requiring any notary public to perform a notarial act using electronic communication technology. A notary public may refuse to perform such a notarial act if the notary public is not satisfied that (a) the principal is competent or has the capacity to execute a record, or (b) the principal's signature is knowingly and voluntarily made.

10. Notwithstanding article nine of the real property law or any other law to the contrary, any act performed in conformity with this section shall satisfy any requirements at law that a principal personally appear before, be in the presence of, or be in a single time and place with a notary public at the time of the performance of the notarial act, unless a law expressly excludes the authorization provided for in this section.

§136. Notarial fees.

A notary public shall be entitled to the following fees:

1. For administering an oath or affirmation, and certifying the same when required, except where another fee is specifically prescribed by statute, $2.

2. For taking and certifying the acknowledgment or proof of execution of a written instrument, by one person, $2, and by each additional person, $2, for swearing such witness thereto, $2.

3. For electronic notarial services, established in section one hundred thirty-five-c of this chapter, a fee set through regulation by the secretary of state.

§137. Statement as to authority of notaries public.

In exercising powers pursuant to this article, a notary public, in addition to the venue of the act and signature of such notary public, shall print, typewrite, stamp, or affix by electronic means where performing an electronic notarial act in conformity with section one hundred thirty-five-c of the executive law, beneath their signature in black ink, the notary public's name, the words "Notary Public State of New York," the name of the county in which such notary public originally qualified, and the expiration date of such notary public's commission and, in addition, wherever required, a notary public shall also include the name of any county in which such notary public's certificate of official character is filed, using the words "Certificate filed ..... County." A notary public who is duly licensed as an attorney and counselor at law in this State may, substitute the words "Attorney and Counselor at Law" for the words "Notary Public." A notary public who has qualified or who has filed a certificate of official character in the office of the clerk in a county or counties within the City of New York must also affix to each instrument such notary public's official number or numbers in black ink, as assigned by the clerk or clerks of such county or counties at the time such notary qualified in such county or counties and, if the instrument is to be recorded in an office of the register of the City of New York in any county within such city and the notary has been given a number or numbers by such register or his predecessors in any county or counties, when the notary public's autographed signature and certificate are filed in such office or offices pursuant to this chapter, the notary public shall also affix such number or numbers. No official act of such notary public shall be held invalid on account of the failure to comply with these provisions. If any notary public shall willfully fail to comply with any of the provisions of this section, the notary public shall be subject to disciplinary action by the secretary of state. In all the courts within this State the certificate of a notary public, over the signature of the notary public, shall be received as presumptive evidence of the facts contained in such certificate; provided, that any person interested as a party to a suit may contradict, by other evidence, the certificate of a notary public.

§138. Powers of notaries public or other officers who are stockholders, directors, officers or employees of a corporation.

A notary public, justice of the supreme court, a judge, clerk, deputy clerk, or special deputy clerk of a court, an official examiner of title, or the mayor or recorder of a city, a justice of the peace, surrogate, special surrogate, special county judge, or commissioner of deeds, who is a stockholder, director, officer or employee of a corporation may take the acknowledgment or proof of any party to a written instrument executed to or by such corporation, or administer an oath of any other stockholder, director, officer, employee or agent of such corporation, and such notary public may protest for non- acceptance or non-payment, bills of exchange, drafts, checks, notes and other negotiable instruments owned or held for collection by such corporation; but none of the officers above named shall take the acknowledgment or proof of a written instrument by or to a corporation of which he is a stockholder, director, officer or employee, if such officer taking such acknowledgment or proof be a party executing such instrument, either individually or as representative of such corporation, nor shall a notary public protest any negotiable instruments owned or held for collection by such corporation, if such notary public be individually a party to such instrument, or have a financial interest in the subject of same. All such acknowledgments or proofs of deeds, mortgages or other written instruments, relating to real property heretofore taken before any of the officers aforesaid are confirmed. This act shall not affect any action or legal proceeding now pending.

§142-a. Validity of acts of notaries public and commissioners of deeds notwithstanding certain defects.

1. Except as provided in subdivision three of this section, the official certificates and other acts heretofore or hereafter made or performed of notaries public and commissioners of deeds heretofore or hereafter and prior to the time of their acts appointed or commissioned as such shall not be deemed invalid, impaired or in any manner defective, so far as they may be affected, impaired or questioned by reason of defects described in subdivision two of this section.

2. This section shall apply to the following defects:

(a) ineligibility of the notary public or commissioner of deeds to be appointed or commissioned as such;

(b) misnomer or misspelling of name or other error made in his appointment or commission;

(c) omission of the notary public or commissioner of deeds to take or file his official oath or otherwise qualify;

(d) expiration of his term, commission or appointment;

(e) vacating of his office by change of his residence, by acceptance of another public office, or by other action on his part;

(f) the fact that the action was taken outside the jurisdiction where the notary public or commissioner of deeds was authorized to act.

3. No person shall be entitled to assert the effect of this section to overcome a defect described in subdivision two if he knew of the defect or if the defect was apparent on the face of the certificate of the notary public or commissioner of deeds; provided however, that this subdivision shall not apply after the expiration of six months from the date of the act of the notary public or commissioner of deeds.

4. After the expiration of six months from the date of the official certificate or other act of the commissioner of deeds, subdivision one of this section shall be applicable to a defect consisting in omission of the certificate of a commissioner of deeds to state the date on which and the place in which an act was done, or consisting of an error in such statement.

5. This section does not relieve any notary public or commissioner of deeds from criminal liability imposed by reason of his act, or enlarge the actual authority of any such officer, nor limit any other statute or rule of law by reason of which the act of a notary public or commissioner of deeds, or the record thereof, is valid or is deemed valid in any case.

Real Property Law

§290. Definitions; effect of article.

***

3. The term "conveyance" includes every written instrument, by which any estate or interest in real property is created, transferred, mortgaged or assigned, or by which the title to any real property may be affected, including an instrument in execution of power, although the power be one of revocation only, and an instrument postponing or subordinating a mortgage lien; except a will, a lease for a term not exceeding three years, an executory contract for the sale or purchase of lands, and an instrument containing a power to convey real property as the agent or attorney for the owner of such property.

***

§298. Acknowledgments and proofs within the state.

The acknowledgment or proof, within this state, of a conveyance of real property situate in this State may be made:

1. At any place within the state, before

(a) a justice of the supreme court;

(b) an official examiner of title;

(c) an official referee; or

(d) a notary public.

2. Within the district wherein such officer is authorized to perform official duties, before

(a) a judge or clerk of any court of record;

(b) a commissioner of deeds outside of the City of New York, or a commissioner of deeds of the City of New York within the five counties comprising the City of New York;

(c) the mayor or recorder of a city;

(d) a surrogate, special surrogate, or special county judge; or

(e) the county clerk or other recording officer of a county.

3. Before a justice of the peace, town councilman, village police justice or a judge of any court of inferior local jurisdiction, anywhere within the county containing the town, village or city in which he is authorized to perform official duties.

§302. Acknowledgments and proofs by married women.

The acknowledgment or proof of a conveyance of real property, within the state, or of any other written instrument, may be made by a married woman the same as if unmarried.

§303. Requisites of acknowledgments.

An acknowledgment must not be taken by any officer unless he knows or has satisfactory evidence, that the person making it is the person described in and who executed such instrument.

§304. Proof by subscribing witness.

When the execution of a conveyance is proved by a subscribing witness, such witness must state his own place of residence, and if his place of residence is in a city, the street and street number, if any thereof, and that he knew the person described in and who executed the conveyance. The proof must not be taken unless the officer is personally acquainted with such witness, or has satisfactory evidence that he is the same person, who was a subscribing witness to the conveyance.

§306. Certificate of acknowledgment or proof.

A person taking the acknowledgment or proof of a conveyance must endorse thereupon or attach thereto, a certificate, signed by himself, stating all the matters required to be done, known, or proved on the taking of such acknowledgment or proof; together with the name and substance of the testimony of each witness examined before him, and if a subscribing witness, his place of residence.

***

§309-a. Uniform forms of certificates of acknowledgment or proof within this state.

1. The certificate of an acknowledgment, within this State, or a conveyance or other instrument in respect to real property situate in this State, by a person, must conform substantially with the following form, the blanks being properly filled:

State of New York)
) ss.:
County of . . . . .)

On the . . . . . day of . . . . . in the year . . . . . before me, the undersigned, personally appeared . . . . . ., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(*Signature and office of individual taking acknowledgment.*)

2. The certificate for a proof of execution by a subscribing witness, within this state, of a conveyance or other instrument made by any person in respect to real property situate in this state, must conform substantially with the following form, the blanks being properly filled:

State of New York)
) ss.:
County of . . . . .)

On the . . . . . day of . . . . . in the year . . . . . before me, the undersigned, personally appeared . . . . . ., the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in . . . . . (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she/they know(s) . . . . . to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said . . . . . execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto.

(*Signature and office of individual taking proof*).

3. A certificate of an acknowledgment or proof taken under §300 of this article shall include the additional information required by that section.

4. For the purposes of this section, the term "person" means any corporation, joint stock company, estate, general partnership (including any registered limited liability partnership or foreign limited liability partnership), limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, attorney in fact, real estate investment trust, business trust or other trust, custodian, nominee or any other individual or entity in its own or any representative capacity.

§ 309-b. Uniform forms of certificates of acknowledgment or proof without this state.

1. The certificate of an acknowledgment, without this State, of a conveyance or other instrument with respect to real property situate in this State, by a person, may conform substantially with the following form, the blanks being properly filled:

State, District of Columbia,)
Territory, Possession, or) ss.:
Foreign Country)

On the . . . . . day of . . . . . in the year . . . . . before me, the undersigned, personally appeared . . . . . ., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(*Signature and office of individual taking acknowledgment.*)

2. The certificate for a proof of execution by a subscribing witness, without this State, of a conveyance or other instrument made by any person in respect to real property situate in this State, may conform substantially with the following form, the blanks being properly filled:

State, District of Columbia,)
Territory, Possession, or) ss.:
Foreign Country)

On the . . . . . day of . . . . . in the year . . . . . before me, the undersigned, personally appeared . . . . . ., the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she resides in . . . . . (if the place of residence is in a city, include the street and street number, if any, thereof); that he/she knows . . . . . to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said . . . . . execute the same; and that said witness at the same time subscribed his/her name as a witness thereto.

(*Signature and office of individual taking proof.*)

3. No provision of this section shall be construed to:

(a) modify the choice of laws afforded by §§299-a and 301-a of this article pursuant to which an acknowledgment or proof may be taken;

(b) modify any requirement of §307 of this article;

(c) modify any requirement for a seal imposed by subdivision one of §308 of this article;

(d) modify any requirement concerning a certificate of authentication imposed by §308, 311, 312, 314, or 318 of this article; or

(e) modify any requirement imposed by any provision of this article when the certificate of acknowledgment or proof purports to be taken in the manner prescribed by the laws of another state, the District of Columbia, territory, possession, or foreign country.

4. A certificate of an acknowledgment or proof taken under §300 of this article shall include the additional information required by that section.

5. For the purposes of this section, the term "person" means a person as defined in subdivision 4 of §309-a of this article.

6. The inclusion within the body (other than the jurat) of a certificate of acknowledgment or proof made under this section or the city or other political subdivision and the state or country or other place the acknowledgment was taken shall be deemed. A non-substantial variance from the form of a certificate authorized by this section.

§330. Officers guilty of malfeasance liable for damages.

An officer authorized to take the acknowledgment or proof of a conveyance or other instrument, or to certify such proof or acknowledgment, or to record the same, who is guilty of malfeasance or fraudulent practice in the execution of any duty prescribed by law in relation thereto, is liable in damages to the person injured.

§333. When conveyances of real property not to be recorded.

***

2. A recording officer shall not record or accept for record any conveyance of real property, unless said conveyance in its entirety and the certificate of acknowledgment or proof and the authentication thereof, other than proper names therein which may be in another language provided they are written in English letters or characters, shall be in the English language, or unless such conveyance, certificate of acknowledgment or proof, and the authentication thereof be accompanied by and have attached thereto a translation in the English language duly executed and acknowledged by the person or persons making such conveyance and proved and authenticated, if need be, in the manner required of conveyances for recording in this state, or, unless such conveyance, certificate of acknowledgment or proof, and the authentication thereof be accompanied by and have attached thereto a translation in the English language made by a person duly designated for such purpose by the county judge of the county where it is desired to record such conveyance or a justice of the supreme court and be duly signed, acknowledged and certified under oath or upon affirmation by

such person before such judge, to be a true and accurate translation and contain a certification of the designation of such person by such judge.

Special Note

By reason of changes in certain provisions of the Real Property Law, any and all limitations on the authority of a notary public to act as such in any part of the State have been removed; a notary public may now, in addition to administering oaths or taking affidavits anywhere in the State, take acknowledgments and proofs of conveyances anywhere in the State. The need for a certificate of authentication of a county clerk as a prerequisite to recording or use in evidence in this State of the instrument acknowledged or proved has been abolished. The certificate of authentication may possibly be required where the instrument is to be recorded or used in evidence outside the jurisdiction of the State.

Effective September 23, 2012, recording officers (County Clerks) may receive and record digitized paper documents and electronic records affecting real property, including real property transfer documents such as deeds, mortgages, notes and accompanying documents. The Office of Information Technology Services (ITS) has promulgated rules and regulations to support the implementation of electronic recording by local recording officers.

§335. Banking Law

If the rental fee of any safe deposit box is not paid, or after the termination of the lease for such box, and at least 30 days after giving proper notice to the lessee, the lessor (bank) may, in the presence of a notary public, open the safe deposit box, remove and inventory the contents. The notary public shall then file with the lessor a certificate under seal which states the date of the opening of the safe deposit box, the name of the lessee, and a list of the contents. Within 10 days of the opening of the safe deposit box, a copy of this certificate must be mailed to the lessee at his last known postal address.

Rule 3113. Civil Practice Law and Rules

This rule authorizes a deposition to be taken before a notary public in a civil proceeding.

§11. Domestic Relations Law

A notary public has no authority to solemnize marriages; nor may a notary public take the acknowledgment of parties and witnesses to a written contract of marriage.

§10. Public Officers Law

Official oaths, permits the oath of a public officer to be administered by a notary public.

Restrictions and Violations

Index

Law	Sec	Subject
Judiciary Law	484	None but Attorneys to Practice
Judiciary Law	485	Misdemeanor Violations
Judiciary Law	750	Powers of Courts to Punish
Public Officers Law	15	Notary Must Not Act Before Taking/Filing Oath
Public Officers Law	67	Fees of Public Officers
Public Officers Law	69	Fees Prohibited for Administering Certain Oaths
Executive Law	135a	Removal From Office for Misconduct
Penal Law	70.00	Sentence of Imprisonment for Felony
Penal Law	70.15	Sentences of Imprisonment for Misdemeanors
Penal Law	170.10	Forgery in the Second Degree
Penal Law	175.40	Issuing a False Certificate
Penal Law	195.00	Official Misconduct

Judiciary Law

§484. None but attorneys to practice in the state.

No natural person shall ask or receive, directly or indirectly, compensation for appearing for a person other than himself as attorney in any court or before any magistrate, or for preparing deeds, mortgages, assignments, discharges, leases or any other instruments affecting real estate, wills, codicils, or any other instrument affecting the disposition of property after death, or decedents' estates, or pleadings of any kind in any action brought before any court of record in this state, or make it a business to practice for another as an attorney in any court or before any magistrate unless he has been regularly admitted to practice, as an attorney or counselor, in the courts of record in the state; but nothing in this section shall apply

(1) to officers of societies for the prevention of cruelty, duly appointed, when exercising the special powers conferred upon such corporations under §1403 of the Not-for-Profit Corporation Law; or

(2) to law students who have completed at least 2 semesters of law school or persons who have graduated from a law school, who have taken the examination for admittance to practice law in the courts of record in the state immediately available after graduation from law school, or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, acting under the supervision of a legal aid organization, when such students and persons are acting under a program approved by the appellate division of the supreme court of the department in which the principal office of such organization is located and specifying the extent to which such students and persons may engage in activities prohibited by this statute; or

(3) to persons who have graduated from a law school approved pursuant to the rules of the court of appeals for the admission of attorneys and counselors-at-law and who have taken the examination for admission to practice as an attorney and counselor-at-law immediately available after graduation from law school or the examination immediately available after being notified by the board of law examiners that they failed to pass said exam, and who have not been notified by the board of law examiners that they have failed to pass two such examinations, when such persons are acting under the supervision of the state or a subdivision thereof or of any officer or agency of the state or a subdivision thereof, pursuant to a program approved by the appellate division of the supreme court of the department within which such activities are taking place and specifying the extent to which they may engage in activities otherwise prohibited by this statute and those powers of the supervising governmental entity or officer in connection with which they may engage in such activities.

§485. Violation of certain preceding sections a misdemeanor.

Any person violating the provisions of §§478, 479, 480, 481, 482, 483 or 484, shall be guilty of a misdemeanor.

§750. Power of courts to punish for criminal contempts.

*** B. *** the supreme court has power under this section to punish for a criminal contempt any person who unlawfully practices or assumes to practice law; and a proceeding under this subdivision may be instituted on the court's own motion or on the motion of any officer charged with the duty of investigating or prosecuting unlawful practice of law, or by any bar association incorporated under the laws of this State.

Illegal practice of law by notary public.

To make it a business to practice as an attorney at law, not being a lawyer, is a crime. "Counsel and advice, the drawing of agreements, the organization of corporations and preparing papers connected therewith, the drafting of legal documents of all kinds, including wills, are activities which have been long classed as law practice." (*People* v. *Alfani*, 227 NY 334, 339.)

Wills.

The execution of wills under the supervision of a notary public acting in effect as a lawyer, "cannot be too strongly condemned, not only for the reason that it means an invasion of the legal profession, but for the fact that testators thereby run the risk of frustrating their own solemnly declared intentions and rendering worthless maturely considered plans for the disposition of estates whose creation may have been the fruit of lives of industry and self-denial." (*Matter of Flynn*, 142 Misc. 7.)

Public Officers Law

Notary must not act before taking and filing oath of office. The Public Officers Law (§15) provides that a person who executes any of the functions of a public office without having taken and duly filed the required oath of office, as prescribed by law, is guilty of a misdemeanor. A notary public is a public officer.

§67. Fees of public officers.

1. Each public officer upon whom a duty is expressly imposed by law, must execute the same without fee or reward, except where a fee or other compensation therefor is expressly allowed by law.

2. An officer or other person, to whom a fee or other compensation is allowed by law, for any service, shall not charge or receive a greater fee or reward, for that service, than is so allowed.

3. An officer, or other person, shall not demand or receive any fee or compensation, allowed to him by law for any service, unless the service was actually rendered by him; except that an officer may demand in advance his fee, where he is, by law, expressly directed or permitted to require payment thereof, before rendering the service.

4. *** An officer or other person, who violates either of the provisions contained in this section, is liable, in addition to the punishment prescribed by law for the criminal offense, to an action in behalf of the person aggrieved, in which the plaintiff is entitled to treble damages.

A notary public subjects himself to criminal prosecution, civil suit and possible removal by asking or receiving more than the statutory allowance, for administering the ordinary oath in connect with an affidavit. (Op. Atty. Gen. (1917) 12 St. Dept. Rep. 507.)

§69. Fee for administering certain official oaths prohibited.

An officer is not entitled to a fee, for administering the oath of office to a member of the legislature, to any military officer, to an inspector of election, clerk of the poll, or to any other public officer or public employee.

Executive Law

Misconduct by a notary and removal from office.

A notary public who, in the performance of the duties of such office shall practice any fraud or deceit, is guilty of a misdemeanor (Executive Law, §135-a), and may be removed from office. The notary may be removed from office if the notary made a misstatement of a material fact in his application for appointment; for preparing and taking an oath of an affiant to a statement that the notary knew to be false or fraudulent.

Penal Law

§70.00 Sentence of imprisonment for felony.

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2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

***

(d) For a class D felony, the term shall be fixed by the court, and shall not exceed 7 years; and

(e) For a class E felony, the term shall be fixed by the court, and shall not exceed 4 years.

***

§70.15 Sentences of imprisonment for misdemeanors and violation.

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed one year; ***

§170.10 Forgery in the second degree.

A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed:

1. A deed, will, codicil, contract, assignment, commercial instrument, or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

2. A public record, or an instrument filed or required or authorized by law to be filed in or with a public office or public servant; or

3. A written instrument officially issued or created by a public office, public servant or governmental instrumentality.

***

Forgery in the second degree is a class D felony.

§175.40 Issuing a false certificate.

A person is guilty of issuing a false certificate when, being a public servant authorized by law to make or issue official certificates or other official written instruments, and with intent to defraud, deceive or injure

another person, he issues such an instrument, or makes the same with intent that it be issued, knowing that it contains a false statement or false information.

Issuing a false certificate is a class E felony.

§195.00 Official misconduct.

A public servant is guilty of official misconduct when, with intent to obtain a benefit or to injure or deprive another person of a benefit:

1. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or

2. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

Official misconduct is a class A misdemeanor.

Notary must officiate on request.

The Penal Law (§195.00) provides that an officer before whom an oath or affidavit may be taken is bound to administer the same when requested, and a refusal to do so is a misdemeanor. (*People* v. *Brooks*, 1 Den. 457.)

Perjury.

One is guilty of perjury if he has stated or given testimony on a material matter, under oath or by affirmation, as to the truth thereof, when he knew the statement or testimony to be false and willfully made.

RULES AND REGULATIONS
TITLE 19 NYCRR
CHAPTER V, SUBCHAPTER L

PART 182
NOTARIES PUBLIC

§182.1 Advertising

(a) A notary public who is not an attorney licensed to practice law in the State of New York shall not falsely advertise that he or she is an attorney licensed to practice law in the State of New York or in any jurisdiction of the United States by using foreign terms including, but not limited to: abogado, mandataire, procuratore, Адвокат, **律師**, and avoca.

(b) A notary public who is not an attorney licensed to practice law in the State of New York and who advertises his or her services as a notary public in a language other than English shall include in the advertisement the following disclaimer: "I am not an attorney licensed to practice law and may not give legal advice about immigration or any other legal matter or accept fees for legal advice." The disclaimer shall be printed clearly and conspicuously and shall be made in the same language as the advertisement. The translated disclaimer, in some but not all languages, is as follows:

(1) Simplified Chinese:
我不是有执照的律师，不能出庭辩护，不能提供有关移民事务或其他法律事务的法律建议，也不能收取法律咨询的费用。

(2) Traditional Chinese:
本人不是持牌執業律師，因此不能出庭辯護,不能向閣下提供移民及其他法律事務方面的法律意見，也不能收取法律諮詢費

(3) Spanish:
"No estoy facultado para ejercer la profesión de abogado y no puedo brindar asesoría legal sobre inmigración o ningún otro asunto legal como tampoco puedo cobrar honorarios por la asesoría legal."

(4) Korean:
저는 법을 집행할 수 있는 자격이 있는 변호사가 아니며, 이민이나 또는 다른 적법한 문제나 혹은 적법한 조언에 대한 수수료를 받을 수 있는지에 대한 법률상의 조언을 드릴수 가 없을지도 모릅니다.

(5) Haitian Creole:
MWEN PA AVOKA KI GEN LISANS POU PRATIKE LWA E MWEN PA KA BAY KONSÈY LEGAL SOU ZAFÈ IMIGRASYON OSWA NENPÒT KI LÒT ZAFÈ LEGAL OSWA AKSEPTE LAJEN POU BAY KONSÈY LEGAL.

§182.2 Definitions

For purposes of this Part, the following terms have the following meanings:

(a) "Notary Public" or "Notary" means an individual who meets the qualifications set forth in section 130 of the Executive Law and has been appointed by the secretary of state pursuant to section 131 of the Executive Law to perform notarial acts in accordance with procedures outlined in article 6 of the Executive Law and this Part.

(b) "Electronic notary public" or "electronic notary" means a notary public or notary who has registered with the secretary of state the capability of performing electronic notarial acts in accordance with section 135-c of the Executive Law and this Part.

(c) "Notarial act" means any official act that a notary public is authorized to perform by law, including, but not limited to:

(1) administering oaths and affirmations;

(2) taking affidavits and depositions;

(3) receiving and certifying acknowledgments or proof of such written instruments as deeds, mortgages, powers of attorney and other instruments in writing;

(4) demanding acceptance or payment of foreign and inland bills of exchange, promissory notes and obligations in writing, and protesting the same for non-acceptance or non-payment, as the case may require;

(5) preparation of a certificate of authenticity in accordance with paragraph (d) of subdivision six of section 135-c of the Executive Law or

(6) an electronic notarial act.

(d) "Electronic notarial act" means an official act by a notary public, physically present in the state of New York, on or involving an electronic record and using communication technology authorized by this Part.

(e) "Record" means information that is inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form. The term "record" includes an electronic record.

(f) "Electronic record" means information that is created, generated, sent, communicated, received, or stored by electronic means.

(g) "Identity verification" means the use of an authentication process by which a notary public validates the identity of any principal and/or individual present for a notarial act.

(h) "Credential analysis" means a process or service operating according to the standards adopted in this Part, through which a third-party affirms the validity of government-issued identification through review of public and proprietary data sources.

(i) "Credential service provider" means a third party trusted entity that issues or registers subscriber authenticators and issues electronic credentials to subscribers.

(j) “Identity proofing” means a process by which a credential service provider collects, validates, and verifies information about a person.

(k) “Personal appearance” means presence at a transaction for which a notarial act is required, either physically or electronically, in a manner that meets all requirements imposed by this Part.

(l) “Communication technology” means an electronic device or process that: (1) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and (2) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(m) "Electronic signature" has the same meaning set forth in subdivision 3 of section 302 of the State Technology Law, except that any electronic signature affixed by an electronic notary in the performance of an electronic notarial act must also meet the additional requirements outlined in this Part.

(n) “Public key infrastructure” means the architecture, organization, techniques, practices, and procedures that collectively support the implementation and operation of a certificate-based asymmetric or public/private key cryptographic system.

(o) “Public/private key or asymmetric cryptographic system” means a system by which two mathematically linked keys are generated, one a publicly available validation key and the other a private key that cannot be deduced from the public key.

(p) “Principal” means an individual:

(1) whose signature is reflected on a record that is notarized;

(2) who has taken an oath or affirmation administered by a notary public;

(3) whose signature is reflected on a record that is notarized after the individual has taken an oath or affirmation administered by a notary public; or

(4) for purposes of this Part, any individual who intends to engage in any of these acts.

§182.3 Requirements for Notaries

(a) All notaries public who wish to perform notarial acts in New York State, must:

(1) satisfy the requirements of sections 130 and 131 of the Executive Law;

(2) obtain satisfactory evidence of the identity of any principal or other individual appearing before the notary in a manner authorized by this Part;

(3) require the personal appearance of all parties to any transaction for which a notarial act is required for the duration of any such transaction, except acts performed as authorized and in conformity with this Part and section 135-c of Executive Law unless a law expressly excludes such authorization;

(4) administer any oath or affirmation as required by the law governing the transaction for which the notarial act is required and, regardless of the county of qualification, include and affix to each instrument requiring an oath or affirmation such notary public’s official number;

(5) disqualify themselves from performing notarial acts for transactions in which the notary is a party or directly and pecuniarily interested in the transaction;

(6) refuse to perform a notarial act when the requirements of this Part are not met, or if the notary is not satisfied that the official record or the presented record evidences the individual’s capacity to act as the representative on the record presented for notarization;

(7) maintain records as required by this Part; and

(8) within five days after a change of name, address, or e-mail address, transmit to the secretary of state a notice of the change, signed with the notary public's official signature.

(b) A notary may refuse to perform a notarial act if the notary public is not satisfied that:

(1) the principal is competent or has the capacity to execute a record; and/or

(2) the principal’s signature is knowingly and voluntarily made.

§182.4 Additional Requirements for Electronic Notaries

(a) In addition to the requirements set forth in section 182.3 of this Part, all notaries public who wish to perform electronic notarial acts in New York State must:

(1) register the capability to notarize electronically with the secretary of state in compliance with this Part;

(2) use only those vendors or providers who comply with the standards outlined in this Part and any communication or reporting relating to those standards as required by the secretary of state;

(3) be physically located within the boundaries of New York when performing electronic notarial acts;

(4) use a network that permits location detection when performing an electronic notarial act, meaning that no action, process or device shall be used to disguise or hide the actual location from which the electronic notary is performing the electronic notarial act, and that no function on any system or device used by an electronic notary that permits location detection shall be disabled or otherwise interfered with during the performance of an electronic notarial act;

(5) affix a reliable electronic signature to electronic records. An electronic signature is reliable if it is:

(i) unique to the notary public;

(ii) attached or logically associated with an electronic record by use of a digital certificate that utilizes public key infrastructure as defined in this Part and is capable of independent verification;

(iii) retained under the notary's sole control; and

(iv) linked to the data in such a manner that any subsequent alterations to the underlying record are detectable and may invalidate the electronic notarial act;

(6) use their designated electronic signature only for the purpose of performing electronic notarial acts or as otherwise specified in this Part;

(7) ensure the remote online notarial certificate for an electronic notarial act clearly states that the person making the acknowledgement or making the oath appeared using communication technology;

(8) for execution of any instrument in writing, if under applicable law the record may be signed with an electronic signature, confirm that such instrument is the same instrument in which the principal made a statement or on which the principal executed a signature;

(9) if the principal is located outside of the United States, verify, through verbal confirmation made by the principal in the course of the recorded electronic notarial act, that the record or subject of the notarial act:

(i) is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(ii) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States;

(10) In complying with paragraph (8) of subdivision (a) of section 182.3 of this Part ensure that the notice of change is electronically transmitted to the secretary of state, signed with the notary public's designated electronic signature;

(11) for any update to the information required to be submitted by a notary public to register the capability to perform an electronic notarial act, make such update prior to performance of any electronic notarial act; and

(b) The notary public shall not disclose any access information used to affix the electronic notary's signature and seal except when requested by the secretary of state or a designee, or judicial subpoena, and with reasonable precautions, electronic document preparation and transmission vendors. Control of security aspects such as but not limited to passwords, token devices, biometrics, PINS, phrases, software on protected hardware shall remain under the sole control of the notary public.

§182.5 Satisfactory Evidence of Identity

(a) For any individual signing a document who makes a personal appearance before a notary public, including but not limited to any principal seeking a notarial act, and any witness thereto, the notary must obtain satisfactory evidence of the identity of each such individual that complies with the requirements of this Part.

(b) For any individual signing a document who physically appears before a notary public, satisfactory evidence of identity requires identity verification through:

(1) presentation of the back and front of an identification card issued by a governmental agency provided the card:

(i) is valid and current;

(ii) contains the photographic image of the bearer;

(iii) has an accurate physical description of the bearer, if applicable; and

(iv) includes the signature of the bearer;

(2) at least two current documents issued by an institution, business entity, or federal or state government with at least the individual's signature;

(3) attestation by the notary that the individual is personally known to them;

(4) the oath or affirmation of a witness who is personally known to both the individual and notary; or

(5) the oath or affirmation of two witnesses who know the individual personally and provide identification that meets the requirements of paragraph (1) of subdivision (b) of this section.

(c) For any individual signing a document who appears before an electronic notary public using communication technology, and who is not personally known to the notary public, satisfactory evidence of identity requires all of the following:

(1) identity verification as outlined in subdivision (b) of this section, utilizing communication technology that meets the requirements set forth in this Part;

(2) credential analysis that meets the requirements set forth in this Part; and

(3) identity proofing by a third-party service provider that meets the requirements set forth in this Part.

(d) Provided that all other requirements of this Part are met, attestation by an electronic notary public that an individual appearing through communication technology is personally known to them is satisfactory evidence of identity for electronic notarial acts.

§182.6 Credential Analysis

Credential analysis must conform to all standards set forth in this section.

(a) Credential analysis must be performed by a third-party service provider who has provided evidence to the online notary public of the provider's ability to satisfy the requirements set forth in this rule.

(b) Credential analysis must utilize public or private data sources to confirm the validity of an identification credential and must, at a minimum:

(1) use automated software processes to aid the online notary public in verifying the identity of a remotely located individual;

(2) ensure that the identification credential passes an authenticity test, consistent with sound commercial practices that:

(i) uses technologies consistent with the requirements of this Part to confirm the integrity of visual, physical, or cryptographic security features;

(ii) uses technologies consistent with the requirements of this Part to confirm that the identification credential is not fraudulent or inappropriately modified;

(iii) uses information held or published by the issuing source or an authoritative source, as available, to confirm the validity of identification credential details; and

(iv) provides output of the authenticity test to the online notary public.

§182.7 Identity Proofing

(a) Identity proofing must meet, at minimum, the Identity Assurance Level 2 standard as outlined in the Digital Identity Guidelines of the National Institute of Standards and Technology, as referenced in subdivision (b) of this section, or any industry accepted standard that is at least as secure, or more secure, than that standard.

(b) Incorporation by reference. The Identity Assurance Level 2 standard, as outlined in the Digital Identity Guidelines of the National Institute of Standards and Technology, United States Department of Commerce, document SP 800-63-3, Revision 3, dated June 2017 and includes updates as of 03-02-2020, is hereby incorporated by reference. This publication is available free of charge from:

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Copies of said publication may be obtained from the publisher at the following address:
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Attn: Applied Cybersecurity Division, Information Technology Laboratory
100 Bureau Drive (Mail Stop 2000) Gaithersburg, MD 20899-2000
Email: dig-comments@nist.gov

Copies of said publication are available for public inspection and copying at the Office of the New York State Department of State located at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

§182.8 Communication Technology

(a) The communication technology used to perform electronic notarial acts must:

(1) permit sufficient audio and visual clarity to enable the notary and the person(s) for whom a notarial act is requested to see and speak to each other simultaneously through live, real-time transmission throughout the duration of the notarial act, through and including identity verification, identity proofing, the signature of any parties present during the transaction and the application of the notary's signature and seal without interruption;

(2) permit sufficient visual clarity to enable the notary to view, read, and capture the front and back of any identification card presented as verification of identity;

(3) include a signal transmission secure from interception through lawful means by anyone other than the parties to the notarial act;

(4) include a process of reproduction that does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes;

(5) provide some manner of ensuring that the electronic record that is presented for electronic notarization is the same record electronically signed by the principal; and

(6) permit recording and archiving of the audio-video communication session as required by subdivision (b) of this section.

(b) The electronic notary shall keep a copy of the recording of the video and audio conference that includes at minimum:

(1) the complete notarial act, including the verification required by paragraph 9 of subdivision (a) of section 182.4 of this Part;

(2) any signatures required for completion of the notarial act; and

(3) a verbal description of the type of identification used.

The recording shall not include the discussion or display of any personally identifiable information, and must be maintained for a period of at least ten years from the date of transaction.

§182.9 Recordkeeping and Reporting

(a) In addition to any required video and audio conference recording, all notaries public must maintain records sufficient to document compliance with the requirements of sections 130 and 135-c of the Executive Law and the duties and responsibilities of a notary public and/or electronic notary public as outlined in this Part. Record storage may be made through a third party if safeguarded through a password or other secure means of authentication or access. Such records shall be made contemporaneously with the performance of the notarial act and must include:

(1) the date, approximate time, and type of notarial acts performed;

(2) the name and address of any individuals for whom a notarial act was performed;

(3) the number and type of notarial services provided;

(4) the type of credential used to identify the principal, including, for verification made in accordance with paragraphs (4) or (5) of subdivision (b) of section 182.5, the names of the witnesses and, if applicable, the type of credential used;

(5) the verification procedures used for any personal appearance before the notary public; and

(6) for electronic notarial acts, identification of the communication technology and, if not included as part of the communication technology used by the electronic notary, the certification authority and verification providers used.

(b) Any records maintained by a notary public pursuant to this Part must be retained by the notary public for at least ten years.

(c) Any records retained by a notary public pursuant to this Part must be capable of being produced to the secretary of state and others as necessary in relation to the performance of the notary public's obligations pursuant to the Executive Law and this Part.

§182.10 Applications, Registrations and Renewals

(a) Prior to performing any notarial acts, a notary public must be appointed and commissioned by the secretary of state for a four-year term in accordance with the requirements and procedures set forth in Executive Law sections 130 and 131 and must provide all information required by the application form prescribed by the secretary of state.

(b) No commissioned notary public may perform electronic notarial acts until they have registered the capability to notarize electronically on a form prescribed the secretary of state, including, in addition to any other information prescribed by the secretary of state, the following information:

(1) the notary's name as currently commissioned and complete mailing address:

(2) the expiration date of the notary's commission and signature of the commissioned notary;

(3) the notary's email address;

(4) the description of the electronic technology or technologies to be used in attaching the notary's electronic signature to the electronic record, which may be effectuated by registration of vendor account information from a vendor who meets the requirements of this Part, in the manner required by the department of state;

(5) an exemplar of the notary's electronic signature, which shall be provided through and in the manner required by the department of state's registration system using the notary's selected signature vendor and shall contain the notary's name and any necessary instructions, authorizations, or techniques that allow the notary's electronic signature to be read and verified.

(c) A notary public may apply for reappointment within 90 days of expiration of their commission, provided that the notary public continues to meet the requirements set forth in sections 130 and 131 of the Executive Law and this Part.

(d) When any notary public who has registered to perform electronic notarial acts applies for reappointment, the electronic notary public must provide verification of the accuracy of all information on file with the secretary of state and affirm that such notary public is otherwise in compliance with all requirements of this Part.

(e) Any notary public who has failed to comply with any of the requirements of this Part relating to notarial or electronic notarial acts shall not be eligible for reappointment.

(f) All applications for appointment and reappointment of notaries public, and all registrations of capability to perform electronic notarial acts, shall be in the form and manner prescribed by the secretary of state and provided through the department of state's division of licensing.

§182.11 Fees

(a) Applicants for a notary public commission must submit a non-refundable application fee of sixty dollars, which fee shall be used and distributed in accordance with section 131 of the Executive Law.

(b) Registrants for electronic notarial acts must submit a non-refundable registration fee of sixty dollars to the secretary of state with their registration.

(c) Notaries public who wish to renew their notary public commission must pay a non-refundable fee of sixty dollars, which fee shall be used and distributed in accordance with section 131 of the Executive Law.

(d) Notary Public applicants who must take a written exam must submit a fee of fifteen dollars for each examination taken, payable on the date of the examination.

(e) The fee for change requests and Duplicate License/Registration Requests shall be ten dollars, payable to the secretary of state at the time of submission of the request.

(f) A notary public shall be entitled to a fee for notarial acts as set forth in section 136 of the Executive Law.

(g) An electronic notary public shall be entitled to a fee of twenty-five dollars for each electronic notarial act performed, which shall be inclusive of all costs incurred by the notary public.

(h) All application, renewal, and registration fees required to be paid pursuant to this section shall be transmitted in a manner prescribed by the secretary of state.

Definitions and General Terms

Acknowledgment

A formal declaration before a duly authorized officer by a person who has executed an instrument that such execution is his act and deed.

Technically, an "acknowledgment" is the declaration of a person described in and who has executed a written instrument, that he executed the same. As commonly used, the term means the certificate of an officer, duly empowered to take an acknowledgment or proof of the conveyance of real property, that **on a specified date "before me came ....., to me known to be the individual described in and who executed the foregoing instrument and acknowledged that he executed the same."** The purposes of the law respecting acknowledgments are not only to promote the security of land titles and to prevent frauds in conveyancing, but to furnish proof of the due execution of conveyances (*Armstrong* v. *Combs*, 15 App. Div. 246) so as to permit the document to be given in evidence, without further proof of its execution, and make it a recordable instrument.

The Real Property Law prescribes:

"§303. Requisites of acknowledgments. An acknowledgment must not be taken by any officer unless he knows or has satisfactory evidence, that the person making it is the person described in and who executed such instrument."

The thing to be known is the identity of the person making the acknowledgment with the person described in the instrument and the person who executed the same. This knowledge must be possessed by the notary (*Gross* v. *Rowley*, 147 App. Div. 529), and a notary must not take an acknowledgment unless the notary knows or has proof that the person making it is the person described in and who executed the instrument (*People* v. *Kempner*, 49 App. Div. 121). It is not essential that the person who executed the instrument sign his name in the presence of the notary.

Taking acknowledgments over the telephone is illegal and a notary public is guilty of a misdemeanor in so acting. **In the certificate of acknowledgment, a notary public declares: "On this ..... day of ..... 20 ....., before me came ..... to me known," etc.** Unless the person purporting to have made the acknowledgment actually and personally appeared before the notary on the day specified, the notary's certificate that he so came is palpably false and fraudulent. (*Matter of Brooklyn Bar Assoc.*, 225 App. Div. 680.)

Interest as a disqualification. A notary public should not take an acknowledgment to a legal instrument to which the notary is a party in interest. (*Armstrong* v. *Combs*, 15 App. Div. 246.)

Fraudulent certificates of acknowledgment. A notary public who knowingly makes a false certificate that a deed or other written instrument was acknowledged by a party thereto is guilty of forgery in the second degree, which is punishable by imprisonment for a term of not exceeding 7 years (Penal Law, §§170.10 and 70.00[2(d)]. The essence of the crime is false certification, intention to defraud. (*People* v. *Abeel*, 182 NY 415.) While the absence of guilty knowledge or criminal intent would absolve the notary from criminal liability, the conveyance, of which the false certification is an essential part, is a forgery and, therefore, invalid. (*Caccioppoli* v. *Lemmo*, 152 App. Div. 650.)

Damages recoverable from notary for false certificate. Action for damages sustained where notary certified that mortgagor had appeared and acknowledged a mortgage. (*Kainz* v. *Goldsmith*, 231 App. Div. 171.)

Administrator

A person appointed by the court to manage the estate of a deceased person who left no will.

Affiant

The person who makes and subscribes his signature to an affidavit.

Affidavit

An affidavit is a signed statement, duly sworn to, by the maker thereof, before a notary public or other officer authorized to administer oaths. The venue, or county wherein the affidavit was sworn to should be accurately stated. But it is of far more importance that the affiant, the person making the affidavit, should have personally appeared before the notary and have made oath to the statements contained in the affidavit as required by law. Under the Penal Law (§210.00) the wilful making of a false affidavit is perjury, but to sustain an indictment therefor, there must have been, in some form, in the presence of an officer authorized to administer an oath, an unequivocal and present act by which the affiant consciously took upon himself the obligation of an oath; his silent delivery of a signed affidavit to the notary for his certificate, is not enough. (*People* v. *O'Reilly*, 86 NY 154; People ex rel. *Greene* v. *Swasey*, 122 Misc. 388; *People* v. *Levitas* (1963) 40 Misc. 2d 331.) A notary public will be removed from office for preparing and taking the oath of an affiant to a statement that the notary knew to be false. (*Matter of Senft*, August 8, 1929; *Matter of Trotta*, February 20, 1930; *Matter of Kibbe*, December 24, 1931.)

The distinction between the taking of an acknowledgment and an affidavit must be clearly understood. In the case of an acknowledgment, the notary public certifies as to the identity and execution of a document; the affidavit involves the administration of an oath to the affiant. There are certain acknowledgment forms which are a combination of an acknowledgment and affidavit. It is incumbent on the notary public to scrutinize each document presented to him and to ascertain the exact nature of the notary's duty with relation thereto. An affidavit differs from a deposition in that an affidavit is an ex parte statement. (*See definition of Deposition.*)

Affirmation

A solemn declaration made by persons who conscientiously decline taking an oath; it is equivalent to an oath and is just as binding; if a person has religious or conscientious scruples against taking an oath, the notary public should have the person affirm. **The following is a form of affirmation: "Do you solemnly, sincerely, and truly, declare and affirm that the statements made by you are true and correct."**

Apostile

Department of State authentication attached to a notarized and county-certified document for possible international use.

Attest

To witness the execution of a written instrument, at the request of the person who makes it, and subscribe the same as a witness.

Attestation Clause

That clause (*e.g.*, at the end of a will) wherein the witnesses certify that the instrument has been executed before them, and the manner of the execution of the same.

Authentication (Notarial)

A certificate subjoined by a county clerk to any certificate of proof or acknowledgment or oath signed by a notary; this county clerk's certificate authenticates or verifies the authority of the notary public to act as such. (See §133, Executive Law.)

Bill of Sale

A written instrument given to pass title of personal property from vendor to vendee.

Certified Copy

A copy of a public record signed and certified as a true copy by the public official having custody of the original. A notary public has no authority to issue certified copies. Notaries must not certify to the authenticity of legal documents and other papers required to be filed with foreign consular officers. Within this prohibition are certificates of the following type:

United States of America)
State of New York) ss.:
County of New York)

"I ....., a notary public of the State of New York, in and for the county of ....., duly commissioned, qualified and sworn according to the laws of the State of New York, do hereby certify and declare that I verily believe the annexed instrument executed by ..... and sworn to before ....., a notary public of the State of ....., to be genuine in every respect, and that full faith and credit are and ought to be given thereto.

"In testimony whereof I have hereunto set my hand and seal at the City of ....., this ..... day of ....., 20 ....."

(Seal) (Notarial Signature.)"

Chattel

Personal property, such as household goods or fixtures.

Chattel Paper

A writing or writings which evidence both an obligation to pay money and a security interest in a lease or specific goods. The agreement which creates or provides for the security interest is known as a security agreement.

Codicil

An instrument made subsequent to a will and modifying it in some respects.

Consideration

Anything of value given to induce entering into a contract; it may be money, personal services, or even love and affection.

Contempt of Court

Behavior disrespectful of the authority of a court which disrupts the execution of court orders.

Contract

An agreement between competent parties to do or not to do certain things for a legal consideration, whereby each party acquires a right to what the other possesses.

Conveyance (Deed)

Every instrument, in writing, except a will, by which any estate or interest in real property is created, transferred, assigned or surrendered.

County Clerk's Certificate

See "Authentication (Notarial)."

Deponent

One who makes oath to a written statement. Technically, a person subscribing a deposition but used interchangeably with "Affiant."

Deposition

The testimony of a witness taken out of court or other hearing proceeding, under oath or by affirmation, before a notary public or other person, officer or commissioner before whom such testimony is authorized by law to be taken, which is intended to be used at the trial or hearing.

Duress

Unlawful constraint exercised upon a person whereby he is forced to do some act against his will.

Escrow

The placing of an instrument in the hands of a person as a depository who on the happening of a designated event, is to deliver the instrument to a third person. This agreement, once established, should be unalterable.

Executor

One named in a will to carry out the provisions of the will.

Ex Parte (From One Side Only)

A hearing or examination in the presence of, or on papers filed by, one party and in the absence of the other.

Felony

A crime punishable by death or imprisonment in a state prison.

Guardian

A person in charge of a minor's person or property.

Judgment

Decree of a court declaring that one individual is indebted to another and fixing the amount of such indebtedness.

Jurat

A jurat is that part of an affidavit where the officer (notary public) certifies that it was sworn to before him. It is not the affidavit.

The following is the form of jurat generally employed:

"Sworn to before me this ..... day of ....., 20 ....."

Those words placed directly after the signature in the affidavit stating that the facts therein contained were sworn to or affirmed before the officer (notary public) together with his official signature and such other data as required by § 137 of the Executive Law.

Laches

The delay or negligence in asserting one's legal rights.

Lease

A contract whereby, for a consideration, usually termed rent, one who is entitled to the possession of real property transfers such right to another for life, for a term of years or at will.

Lien

A legal right or claim upon a specific property which attaches to the property until a debt is satisfied.

Litigation

The act of carrying on a lawsuit.

Misdemeanor

Any crime other than a felony.

Mortgage On Real Property

An instrument in writing, duly executed and delivered that creates a lien upon real estate as security for the payment of a specified debt, which is usually in the form of a bond.

Notary Public

A public officer who executes acknowledgments of deeds or writings in order to render them available as evidence of the facts therein contained; administers oaths and affirmation as to the truth of statements contained in papers or documents requiring the administration of an oath. The notary's general authority is defined in §135 of the Executive Law; the notary has certain other powers which can be found in the various provisions of law set forth earlier in this publication.

Oath

A verbal pledge given by the person taking it that his statements are made under an immediate sense of this responsibility to God, who will punish the affiant if the statements are false.

Notaries public must administer oaths and affirmations in manner and form as prescribed by the Civil Practice Law and Rules, namely:

§2309(b) Form. An oath or affirmation shall be administered in a form calculated to awaken the conscience and impress the mind of the person taking it in accordance with his religious or ethical beliefs.

An oath must be administered as required by law. The person taking the oath must personally appear before the notary; an oath cannot be administered over the telephone (*Matter of Napolis*, 169 App. Div. 469), and the oath must be administered in the form required by the statute (*Bookman* v. *City of New York*, 200 NY 53, 56).

When an oath is administered the person taking the oath must express assent to the oath repeated by the notary by the words "I do" or some other words of like meaning.

For an oath or affirmation to be valid, whatever form is adopted, it is necessary that: first, the person swearing or affirming must personally be in the presence of the notary public; secondly, that the person unequivocally swears or affirms that what he states is true; thirdly, that he swears or affirms as of that time; and, lastly, that the person conscientiously takes upon himself the obligation of an oath.

A notary public does not fulfill his duty by merely asking a person whether the signature on a purported affidavit is his. An oath must be administered.

A corporation or a partnership cannot take an oath; an oath must be taken by an individual.

A notary public cannot administer an oath to himself.

The privileges and rights of a notary public are personal and cannot be delegated to anyone.

Plaintiff

A person who starts a suit or brings an action against another.

Power of Attorney

A written statement by an individual giving another person the power to act for him.

Proof

The formal declaration made by a subscribing witness to the execution of an instrument setting forth his place of residence, that he knew the person described in and who executed the instrument and that he saw such person execute such instrument.

Protest

A formal statement in writing by a notary public, under seal, that a certain bill of exchange or promissory note was on a certain day presented for payment, or acceptance, and that such payment or acceptance was refused.

Seal

The laws of the State of New York do not require the use of seals by notaries public. If a seal is used, it should sufficiently identify the notary public, his authority and jurisdiction. It is the opinion of the Department of State that the only inscription required is the name of the notary and the words "Notary Public for the State of New York."

Signature of Notary Public

A notary public must sign the name under which he was appointed and no other. In addition to his signature and venue, the notary public shall print, typewrite or stamp beneath his signature in black ink, his name, the words "Notary Public State of New York," the name of the county in which he is qualified, and the date upon which his commission expires (§137, Executive Law).

When a notary marries during the term of office for which he/she was appointed, he/she may continue to use the name under which he/she was commissioned as a notary public. However, if he/she elects to use his/her marriage name, then for the balance of his/her term as a notary public he/she must continue to use the name under which he/she is commissioned in his/her signature and seal when acting in his/her notarial capacity, adding after his/her signature his/her married name, in parentheses. When renewing his/her commission as a notary public, he/she may apply under his/her married name or the name under which he/she was formerly

commissioned. He/she must then perform all his/her notarial functions under the name selected.

A member of a religious order, known therein by a name other than his secular cognomen, may be appointed and may officiate as a notary public under the name by which he is known in religious circles. (Op. Atty. Gen., Mar. 20, 1930.)

Statute
A law established by an act of the Legislature.

Statute of Frauds
State law which provides that certain contracts must be in writing or partially complied with, in order to be enforceable at law.

Statute of Limitations
A law that limits the time within which a criminal prosecution or a civil action must be started.

Subordination Clause
A clause which permits the placing of a mortgage at a later date which takes priority over an existing mortgage.

Sunday
A notary public may administer an oath or take an affidavit or acknowledgment on Sunday. However, a deposition cannot be taken on Sunday in a civil proceeding.

Swear
This term includes every mode authorized by law for administering an oath.

Taking an Acknowledgment
The act of the person named in an instrument telling the notary public that he is the person named in the instrument and acknowledging that he executed such instrument; also includes the act of the notary public in obtaining satisfactory evidence of the identity of the person whose acknowledgment is taken.

The notary public "certifies to the taking of the acknowledgment" when the notary signs his official signature to the form setting forth the fact of the taking of the acknowledgment.

Venue
The geographical place where a notary public takes an affidavit or acknowledgment. Every affidavit or certificate of acknowledgment should show on its face the venue of the notarial act. The venue is usually set forth at the beginning of the instrument or at the top of the notary's jurat, or official certification, as follows: "State of New York, County of (New York) ss.:". Section 137 of the Executive Law imposes the duty on the notary public to include the venue of his act in all certificates of acknowledgments or jurats to affidavits.

Will
The disposition of one's property to take effect after death.

Schedule of Fees

Appointment as Notary Public–	
Total Commission Fee	$60.00
($40 appointment and $20 filing of Oath of Office)	
Change of Name/Address	10.00
Duplicate Identification Card	10.00
Issuance of Certificate of Official Character	1.00
Filing Certificate of Official Character	1.00
Authentication Certificate	3.00
Protest of Note, Commercial Paper, etc.	.75
Each additional Notice of Protest (limit 5) each	.10
Oath or Affirmation	2.00
Acknowledgment (each person)	2.00
Proof of Execution (each person)	2.00
Swearing Witness	2.00

Note
Where gender pronouns appear in this booklet, they are meant to refer to both male and female persons.