

REVISED STATUTES OF NEBRASKA

CHAPTER 23. COUNTY GOVERNMENT AND OFFICERS

Section 23-1311. Instruments; signatures; illegible; refusal to file.

The name or names of each signer of an instrument presented for filing or recording in the office of the county clerk or register of deeds, including the name of any notary or official taking the acknowledgment, shall be typewritten or legibly printed beneath such signature, and the county clerk or register of deeds may refuse to accept and file any instrument failing to meet the requirements of this section; PROVIDED, that if the county clerk or register of deeds determines that all signatures on the instrument are legible, he shall not refuse to file the instrument.

CHAPTER 33. FEES AND SALARIES

33-133. Notaries public; fees; governmental employee; limitation.

Except as otherwise provided in this section, notaries public may charge and collect fees as follows: For each protest, one dollar; for recording the same, two dollars; for each notice of protest, two dollars; for taking affidavits and seal, two dollars; for administering oath or affirmation, two dollars; for each certificate and seal, five dollars; for taking acknowledgment of deed or other instrument, five dollars; and for each mile traveled in serving notice, mileage at the rate provided in section 81-1176. An employee of the state or its political subdivisions may not charge the fees prescribed in this section if his or her governmental employer paid the commission and bonding fees required of notaries public.

Section 33-153. Fees for acknowledgments, oaths, affirmations; report to county board; payment to county treasurer.

All fees received for taking acknowledgments, oaths and affirmations, by any county officer, or any deputy or employee in his office, whether received for taking acknowledgments, oaths and affirmations, in an official capacity as a county officer or while acting in the capacity of a notary public, must be reported to the county board and paid into the county treasury. Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not in excess of one hundred dollars. Any county officer or deputy so offending shall also be subject to removal from office.

CHAPTER 64. NOTARIES PUBLIC ARTICLE 1. GENERAL PROVISIONS

64-101 Appointment; qualifications; term.

(1) The Secretary of State may appoint and commission such number of persons to the office of notary public as he or she deems necessary.

(2) There shall be one class of such appointments which shall be valid in the entire state and referred to as general notaries public.

(3) The term effective date, as used with reference to a commission of a notary public, shall mean the date of the commission unless the commission states when it goes

into effect, in which event that date shall be the effective date.

(4) A general commission may refer to the office as notary public and shall contain a provision showing that the person therein named is authorized to act as a notary public anywhere within the State of Nebraska or, in lieu thereof, may contain the word general or refer to the office as general notary public.

(5) No person shall be appointed a notary public unless he or she has taken and passed a written examination on the duties and obligations of a notary public as provided in section 64-101.01.

(6) No appointment shall be made if such applicant has been convicted of (a) a felony or (b) a crime involving fraud or dishonesty within the previous five years.

(7) No appointment shall be made until such applicant has attained the age of nineteen years nor unless such applicant certifies to the Secretary of State under oath that he or she has carefully read and understands the laws relating to the duties of notaries public and will, if commissioned, faithfully discharge the duties pertaining to the office and keep records according to law.

(8) No person shall be appointed a notary public unless he or she resides in the State of Nebraska, except that the Secretary of State may appoint and commission a person as a notary public who resides in a state that borders the State of Nebraska if such person is employed in or has a regular place of work or business in this state and the Secretary of State has obtained evidence of an address of the physical location of such employment or place of work or business prior to such appointment and commission.

(9) Each person appointed a notary public shall hold office for a term of four years from the effective date of his or her commission unless sooner removed.

64-101.01 Written examination required.

The written examination required by section 64-101 shall be developed and administered by the Secretary of State and shall consist of questions relating to laws, procedures, and ethics for notaries public. All applicants for commission as a notary public on and after July 16, 2004, shall be required to take and pass the examination prior to being commissioned.

64-102 Commission; how obtained; bond.

Any person may apply for a commission authorizing the applicant to act as a notary public anywhere in the State of Nebraska, and thereupon the Secretary of State may, at his or her discretion, issue a commission authorizing such notary public to act as such anywhere in the State of Nebraska. A general commission shall not authorize the holder thereof to act as a notary public anywhere in the State of Nebraska until a bond in the sum of fifteen thousand dollars, with an incorporated surety company as surety, has been executed and approved by and filed in the office of the Secretary of State. Upon the filing of such bond with the Secretary of State and the issuance of such commission, such notary public shall be authorized and empowered to perform any and all the duties of a notary public in any and all the counties in the State of Nebraska. Such bond shall be conditioned for the faithful performance of the duties of such office. Such person so appointed to the office of notary public shall make oath or affirmation, to be endorsed on such bond, and subscribed by him or her before some officer authorized by law to administer oaths, and by him or her certified thereon, that he or she will support the

Constitution of the United States and the Constitution of Nebraska and will faithfully and impartially discharge and perform the duties of the office of notary public.

64-103 Commission; signature; seal; filing and approval of bond; delivery.

When any person is appointed to the office of notary public, the Secretary of State shall cause his or her signature or a facsimile thereof to be affixed to the commission and he or she shall affix thereto the great seal of the state. Upon the filing and approval of the bond, as provided for in section 64-102, the Secretary of State shall mail or deliver the commission to the applicant. The form and format of the commission shall be prescribed by the Secretary of State.

64-104 Notary public; commission; renewal; procedure.

Commissions for general notaries public may be renewed within thirty days prior to the date of expiration by filing a renewal application along with the payment of the fee prescribed in section 33-102 and a new bond with the Secretary of State. The bond required for a renewal of such commission shall be in the same manner and form as provided in section 64-102. The renewal application shall be in the manner and form as prescribed by the Secretary of State. Any renewal application for such commission made after the date of expiration of the commission shall be made in the same manner as a new application for such commission as a general notary public.

64-105 Notarial acts prohibited; when.

(1) A notary public shall not perform any notarial act as authorized by Chapter 64, articles 1 and 2, if the principal:

- (a) Is not in the presence of the notary public at the time of the notarial act; and
- (b) Is not personally known to the notary public or identified by the notary public

through satisfactory evidence.

(2) For purposes of this section:

(a) Identified by the notary public through satisfactory evidence means identification of an individual based on:

(i) At least one document issued by a government agency that is current and that bears the photographic image of the individual's face and signature and a physical description of the individual, except that a properly stamped passport without a physical description is satisfactory evidence; or

(ii) The oath or affirmation of one credible witness unaffected by the document or transaction to be notarized who is personally known to the notary public and who personally knows the individual, or the oaths or affirmations of two credible witnesses unaffected by the document or transaction to be notarized who each personally knows the individual and shows to the notary public documentary identification as described in subdivision (a)(i) of this subsection; and

(b) Personal knowledge of identity or personally known means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

64-105.01 Notary public; disqualified; when.

A notary public is disqualified from performing a notarial act as authorized by Chapter

64, articles 1 and 2, if the notary:

- (1) Is a spouse, ancestor, descendant, or sibling of the principal, including in-law, step, or half relatives;
- (2) Except in the performance of duties pursuant to sections 64-211 to 64-215, has a financial or beneficial interest in the transaction other than receipt of the ordinary notarial fee or is individually named as a party to the transaction; or
- (3) Does not understand the acknowledgment or notarial certificate used to certify the performance of his or her duties.

64-105.02 Notarization; when.

- (1) A notary public may certify the affixation of a signature by mark on a document presented for notarization if:
 - (a) The mark is affixed in the presence of the notary public and of two witnesses unaffected by the document;
 - (b) Both witnesses sign their own names beside the mark;
 - (c) The notary public writes below the mark: “Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notary public”; and
 - (d) The notary public notarizes the signature by mark through an acknowledgment, jurat, or signature witnessing.
- (2) A notary public may sign the name of a person physically unable to sign or make a mark on a document presented for notarization if:
 - (a) The person directs the notary public to do so in the presence of two witnesses unaffected by the document;
 - (b) The notary public signs the person’s name in the presence of the person and the witnesses;
 - (c) Both witnesses sign their own names beside the signature;
 - (d) The notary public writes below the signature: “Signature affixed by notary public in the presence of (names and addresses of person and two witnesses)”; and
 - (e) The notary public notarizes the signature through an acknowledgment, jurat, or signature witnessing.

64-105.03 Notary public; unauthorized practice of law; prohibited.

- (1) A notary public who is not an attorney shall not engage in the unauthorized practice of law as provided in this section.
- (2) If notarial certificate wording is not provided or indicated for a document, a notary public who is not an attorney shall not determine the type of notarial act or certificate to be used.
- (3) A notary public who is not an attorney shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.
- (4) A notary public who is not an attorney shall not claim to have powers, qualifications, rights, or privileges that the office of notary public does not provide, including the power to counsel on immigration matters.
- (5) A notary public who is not an attorney and who advertises notarial services in a language other than English shall include in any advertisement, notice, letterhead, or sign a statement prominently displayed in the same language as follows: ”I am not an attorney

and have no authority to give advice on immigration or other legal matters”.

(6) A notary public who is not an attorney may not use the term notario publico or any equivalent non-English term in any business card, advertisement, notice, or sign.

(7) This section does not preclude a notary public who is duly qualified, trained, or experienced in a particular industry or professional field from selecting, drafting, completing, or advising on a document or certificate related to a matter within that industry or field.

(8) A violation of any of the provisions of this section shall be considered the unauthorized practice of law and subject to the penalties provided in section 7-101.

64-105.04 Change of residence; duties.

A notary public shall notify the Secretary of State of any change of his or her residence no later than forty-five days after such change. Information provided on the change-of-address form shall include the notary public’s name as it appears on his or her commission, the date the commission expires, and the notary public’s new address. The Secretary of State shall prescribe forms consistent with the requirements of this section.

64-106 Repealed. Laws 1969, c. 523, s. 11.

64-107 Powers and duties; certificate or records; receipt in evidence.

A notary public is authorized and empowered, within the state: (1) To administer oaths and affirmations in all cases; (2) to take depositions, acknowledgments, and proofs of the execution of deeds, mortgages, powers of attorney, and other instruments in writing, to be used or recorded in this or another state; and (3) to exercise and perform such other powers and duties as authorized by the laws of this state. Over his or her signature and official seal, he or she shall certify the performance of such duties so exercised and performed under this section. Such certificate shall be received in all courts of this state as presumptive evidence of the facts therein certified to.

64-107.01 Oaths and affirmations.

Oaths and affirmations may be administered, in all cases whatsoever, by notaries public.

64-108 Summons; issuance, when authorized; contempt, power to punish.

Every notary public, when notice by a party to any civil suit pending in any court of this state upon any adverse party for the taking of any testimony of witnesses by deposition, or any commission to take testimony of witnesses to be preserved for use in any suit thereafter to be commenced, has been deposited with him, or when a special commission issued out of any court of any state or country without this state, together with notice for the taking of testimony by depositions or commissions, has been deposited with him or her, is empowered to issue summons and command the presence before him or her of witnesses. All sheriffs and constables in this state are required to serve and return all process issued by notaries public in the taking of testimony of witnesses by commission or deposition.

64-109 Civil liability of notary public; actions.

If any person shall be damaged or injured by the unlawful act, negligence or misconduct

of any notary public in his official capacity, the person damaged or injured may maintain a civil action on the official bond of such notary public against such notary public, and his sureties, and a recovery in such action shall not be a bar to any future action for other causes to the full amount of the bond.

64-110 Repealed. Laws 1945, c. 145, s. 15.

64-111 Repealed. Laws 1967, c. 396, s. 11.

64-112 Removal from state; termination; notice to Secretary of State.

Every notary public removing from the State of Nebraska shall notify the Secretary of State of such removal. Such a removal shall terminate the term of his office.

64-113 Removal; grounds; procedure; penalty.

(1) Whenever charges of malfeasance in office are preferred to the Secretary of State against any notary public in this state, or whenever the Secretary of State has reasonable cause to believe any notary public in this state is guilty of acts of malfeasance in office, the Secretary of State may appoint any disinterested person, not related by consanguinity to either the notary public or person preferring the charges, and authorized by law to take testimony of witnesses by deposition, to notify such notary public to appear before him or her on a day and at an hour certain, after at least ten days from the day of service of such notice. At such appearance, the notary public may show cause as to why his or her commission should not be canceled or temporarily revoked. The appointee may issue subpoenas to require the attendance and testimony of witnesses and the production of any pertinent records, papers, or documents, may administer oaths, and may accept any evidence he or she deems pertinent to a proper determination of the charge. The notary public may appear, at such time and place, and cross-examine witnesses and produce witnesses in his or her behalf. Upon the receipt of such examination, duly certified in the manner prescribed for taking depositions to be used in suits in the district courts of this state, the Secretary of State shall examine the same, and if therefrom he or she finds that the notary public is guilty of acts of malfeasance in office, he or she may remove the person charged from the office of notary public or temporarily revoke such person's commission. Within fifteen days after such removal or revocation and notice thereof, such notary public shall deposit, with the Secretary of State, the commission as notary public and notarial seal. The commission shall be canceled or temporarily revoked by the Secretary of State. A person so removed from office shall be forever disqualified from holding the office of notary public. A person whose commission is temporarily revoked shall be returned his or her commission and seal upon completion of the revocation period and passing the examination described in section 64-101.01. The fees for taking such testimony shall be paid by the state at the same rate as fees for taking depositions by notaries public. The failure of the notary public to deposit his or her commission and seal with the Secretary of State as required by this section shall subject him or her to a penalty of one thousand dollars, to be recovered in the name of the state.

(2) For purposes of this section, malfeasance in office means, while serving as a notary public, (a) failure to follow the requirements and procedures for notarial acts provided for in Chapter 64, articles 1 and 2, (b) violating the confidentiality provisions of

section 71-6911, or (c) being convicted of a felony or other crime involving fraud or dishonesty.

64-114 Change of name; continue to act.

Any person, whose name is legally changed after a commission as a notary public is issued to him or her, may continue to act as such notary public and use the original commission, seal, and name until the expiration or termination of such commission. The bond given by such notary public shall continue in effect, regardless of such legal change of name of such notary public, if the notary public uses the name under which the commission is issued.

64-115 Repealed. Laws 1982, LB 592, s. 2.

64-116 Transferred to section 64-104.

64-117 Repealed. Laws 1982, LB 592, s. 2.

64-118 Seal; engraved or ink stamp; adopt; use.

All persons, officers, and governmental and nongovernmental bodies and associations heretofore authorized by law to adopt and use a seal on official documents are hereby authorized to adopt and use either an engraved or ink stamp seal for such purposes, unless the use of ink stamp seals for such purposes is specifically prohibited by law.

64-119. Rules and regulations.

The Secretary of State may adopt and promulgate rules and regulations relating to the administration of, but not inconsistent with, the provisions of sections 64-101 to 64-118.

ARTICLE 2. RECOGNITION OF ACKNOWLEDGMENTS

64-201 Notarial acts, defined; performed; effect.

For the purposes of sections 64-201 to 64-210, unless the context otherwise requires: Notarial acts means acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

- (1) A notary public authorized to perform notarial acts in the place in which the act is performed;
- (2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed;
- (3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;
- (4) A commissioned officer in active service with the armed forces of the United

States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for one of the following or his dependents: A merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States; or

(5) Any other person authorized to perform notarial acts in the place in which the act is performed.

64-202 Notarial act; performance; proof of authority; maintenance of records.

(1) If the notarial act is performed by any of the persons described in sections 64-201 to 64-204, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his or her authority shall not be required.

(2) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

(a) Either a foreign service officer of the United States resident in the country in which the act is performed or a diplomatic or consular officer of the foreign country resident in the United States certifies that a person holding that office is authorized to perform the act;

(b) The official seal of the person performing the notarial act is affixed to the document; or

(c) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(3) An apostille in the form prescribed by the Hague Convention of October 5, 1961, shall conclusively establish that the signature of the notarial officer is genuine and that the officer holds the designated office. The Secretary of State or his or her deputy shall be authorized to sign the apostille.

(4) The Secretary of State may authorize the use of computers to maintain necessary records dealing with notaries public in the State of Nebraska.

64-203 Certificate; contents.

The person taking an acknowledgment shall certify that:

(1) The person acknowledging appeared before him and acknowledged he executed the instrument; and

(2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

64-204 Certificate of acknowledgment; form; acceptance.

The form of a certificate of acknowledgment used by a person whose authority is recognized under section 64-201 shall be accepted in this state if:

(1) The certificate is in a form prescribed by the laws or regulations of this state;

(2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) The certificate contains the words acknowledged before me, or their substantial equivalent.

64-205 Acknowledgment, defined.

The words acknowledged before me means:

- (1) That the person acknowledging appeared before the person taking the acknowledgment;
- (2) That he or she acknowledged he or she executed the instrument;
- (3) That, in the case of:
 - (i) A natural person, he or she executed the instrument for the purposes therein stated;
 - (ii) A corporation, the officer or agent acknowledged he or she held the position or title set forth in the instrument and certificate, he or she signed the instrument on behalf of the corporation by proper authority and the instrument was the act of the corporation for the purpose therein stated;
 - (iii) A partnership, the partner or agent acknowledged he or she signed the instrument on behalf of the partnership by proper authority and he or she executed the instrument as the act of the partnership for the purposes therein stated;
 - (iv) A limited liability company, the member or agent acknowledged he or she signed the instrument on behalf of the limited liability company by proper authority and he or she executed the instrument as the act of the limited liability company for the purposes therein stated;
 - (v) A person acknowledging as principal by an attorney in fact, he or she executed the instrument by proper authority as the act of the principal for the purposes therein stated;
 - (vi) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he or she signed the instrument by proper authority and he or she executed the instrument in the capacity and for the purposes therein stated; and
- (4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

64-206 Statutory short forms of acknowledgment; use of other forms.

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this state. The forms shall be known as Statutory Short Forms of Acknowledgment and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

- (1) For an individual acting in his or her own right:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

- (2) For a corporation:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(3) For a partnership:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(4) For a limited liability company:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging member or agent), member (or agent) on behalf of (name of limited liability company), a limited liability company.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(5) For an individual acting as principal by an attorney in fact:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

(6) By any Public Officer, trustee, or personal representative:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name and title of

position).
(Signature of Person Taking Acknowledgment)
(Title or Rank)
(Serial Number, if any)

64-207 Prior notarial acts; effect.

A notarial act performed prior to August 25, 1969, is not affected by sections 64-201 to 64-210. Sections 64-201 to 64-210 provide an additional method of proving notarial acts. Nothing in sections 64-201 to 64-210 diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this state.

64-208 Sections, how interpreted.

Sections 64-201 to 64-210 shall be so interpreted as to make uniform the laws of those states which enact them. Source: Laws 1969, c. 523, § 8, p. 2144. 64-209 Act, how cited. Sections 64-201 to 64-210 may be cited as the Uniform Recognition of Acknowledgments Act.

64-210 Seal; contents; ink stamp.

(1) Each notary public, before performing any duties of his or her office, shall provide himself or herself with an official ink stamp seal on which shall appear the words State of Nebraska, General Notary or State of Nebraska, General Notarial, and his or her name as commissioned, and the date of expiration of his or her commission.

(2) A notary public shall authenticate all of his or her official acts with such seal.

(3) A notary public whose commission was issued by the Secretary of State before the effective date of this act is not required to purchase a new ink stamp seal in order to comply with this section until the notary public's commission expires. Upon renewal, each notary public shall have engraved on his or her official ink stamp seal all of the information required in subsection (1) of this section.

64-211 Acknowledgment of written instrument; attorneys; real estate broker or salesman; oath; authorized; prior acknowledgments validated.

(1) It shall be lawful for any attorney or any employer or associate of any such attorney, or for any stockholder, officer, or employee of any professional corporation authorized to practice law and who is a notary public to take the acknowledgment of any written instrument given in connection with the professional activities of such attorney or corporation and to administer an oath to any person executing any such instrument.

(2) It shall be lawful for any real estate broker or salesman or any employee or associate of any such broker and who is a notary public to take the acknowledgment of any written instrument given to or by any client of such broker and to administer an oath to any person or persons executing any such instrument.

(3) Acknowledgments taken or oaths administered prior to February 9, 1976, by any person described in subsections (1) and (2) of this section are hereby ratified and shall in all respects be lawful, valid, and binding.

64-212 Acknowledgment of written instrument; insurance company; credit union; oath; authorized.

It shall be lawful for a member or shareholder, an appointive officer, elective officer, agent, director, or employee of an insurance company or a credit union who is a notary public to take the acknowledgment of any person to any written instrument executed to or by the insurance company or credit union and to administer an oath to any shareholder, director, elected or appointed officer, employee, or agent of such insurance company or credit union.

64-213 Acknowledgments of written instruments; insurance company; credit union; oath; prior acknowledgments validated.

Acknowledgments heretofore taken of any person to any written instrument given to or by an insurance company or credit union, or any oath administered to any member, director, elected officer, shareholder, appointive officer, employee, or agent of an insurance company or credit union, by any notary public, who was a member, shareholder, appointive officer, agent, or employee of the insurance company or credit union, and not a director or elected officer thereof, shall be deemed to be lawful, valid, and binding.

64-214 Acknowledgments of written instruments; bank; oath; authorized; prior acknowledgments validated.

(1) It shall be lawful for any stockholder, officer, or director of a bank, who is a notary public, to take the acknowledgment of any person to any written instrument given to or by the bank and to administer an oath to any other stockholder, director, officer, employee or agent of the bank.

(2) Acknowledgments heretofore taken of any person to any written instrument given to or by a bank or any oath administered to any stockholder, director, or officer of a bank by any notary public who was a stockholder, director, or officer of said bank shall be deemed to be lawful, valid and binding.

64-215 Acknowledgments of written instruments; savings and loan association; oath; authorized; prior acknowledgments validated.

It is lawful for any shareholder, director, employee, agent, or any elected or appointed officer of a savings and loan association, who is a notary public, (1) to take the acknowledgment of any person to any written instrument given to or by the savings and loan association and (2) to administer an oath to any other shareholder, director, officer, employee, or agent of the savings and loan association. Acknowledgments heretofore taken of any person to any written instrument given to or by a savings and loan association, or any oath administered to any shareholder, director, employee, agent, or elected or appointed officer of a savings and loan association by any notary public who was a shareholder, director, employee, agent, or any elected or appointed officer of the savings and loan association, shall be deemed to be lawful, valid, and binding.

TITLE 86. TELECOMMUNICATIONS AND TECHNOLOGY

86-638 Notarization and acknowledgment.

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

NEBRASKA ADMINISTRATIVE CODE

TITLE 433 SECRETARY OF STATE-LICENSING REGULATIONS CHAPTER 6. NOTARY PUBLICS

08. DEFINITIONS

For purposes of Chapter 6 of these regulations:

08.04. Act shall mean Neb. Rev. Stat. §§64-101 through 64-118.

001.02. Applicant shall mean a person who has submitted any of the documents listed in Section 3.

001.03. Application shall mean both the initial and renewal application for Notary Public.

001.04. Form shall mean and include an application submitted on paper or an application submitted electronically in a digital format approved by the Secretary.

001.05. Malfeasance in office occurs when a Notary Public fails to follow the requirements and procedures for Notarial acts provided for in statute under Chapter 64, articles 1 and 2, and this administrative code, or, being convicted of a felony or other crime involving fraud or dishonesty within the last five (5) years.

001.06. Nebraska employer means an entity with an office or regular place of business within the physical boundaries of Nebraska. The Secretary's office shall use a US Postal Service address to determine the physical location of the business.

001.07. Notarial act means an act which the law and regulations of this State authorize Notaries Public of this State to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents.

001.08. Notarial certificate or acknowledgement shall mean the section at the end of a document where a Notary Public verifies by notarization that the signor of the document presented satisfactory evidence of identity, appeared in the Notary's presence, and that he/she actually signed the document.

001.09. Regular place of work or business in Nebraska means any place where any person is to work, is working, or customarily works, for gain or reward within the physical boundaries of Nebraska.

001.10. Resident means that the applicant considers Nebraska his or her permanent home, or the place to which he or she intends to return after a period of absence. To meet the residency requirement the applicant must live in Nebraska for more than six (6) months out of the year.

001.11. Secretary shall mean Secretary of State.

Annotation: Neb. Rev. Stat. §§64-101 through 64-118

002. NOTORIAL ACTS

002.01. Document

002.01A. The Notarial certificate or acknowledgement must be completed in its entirety including dates, state and county of notarial act.

002.01B. Blank or incomplete documents should not be notarized.

002.01C. Notaries Public may not post-date or pre-date a document.

002.02. Seal

002.02A. Notaries Public must affix a clear and legible impression of their stamp to a document. The seal and signature may not be affixed over printed material or other signatures on the document.

002.02B. Notaries Public must obtain a new seal each time the commission is renewed which includes the new commission dates.

002.02C. Notary commissions are issued to an individual regardless of whether or not another business or entity paid the notary application fee, bond, or seal.

002.02D. The seal should be secured and only accessible by the Notary Public.

002.03. Signature

002.03A. The signature on the most recent application, whether on an Initial Application for Notary Public Commission, Renewal Application for Notary Public Commission or Notary Public Request to Change Record, will be used for verification; therefore the Notary Public should always sign consistently with their application signature.

002.04. Notaries Public must be aware of the condition of the signor. Special attention should be given when asked to notarize the signature of a minor child or persons that might not have the capability of understanding the document that they are signing. If the Notary Public reasonably believes the signor does not understand the document they should refuse to notarize.

002.05. Notaries Public cannot refuse to provide services on the basis of race, color, national origin, religion, sex (including pregnancy), disability, or marital status.

Annotation: Neb. Rev. Stat. §§64-101 through 64-118

003. APPLICATIONS AND OTHER FORMS

003.01. The following forms are required to obtain and maintain a Notary Public Commission under the Act:

003.01A. Initial Application for Notary Public Commission

003.01B. U.S. Citizenship Attestation Form

003.01C. Bond Form

003.01D. Renewal Application for Notary Public Commission

003.01E. Evidence of Employment in Nebraska

003.01F. Notary Public Request to Change Record

003.01G. Bond Rider

003.02. A \$15,000 surety bond is required and must be concurrent with the Notary Public commission term.

003.03. The forms listed in this section and attached hereto shall be made available to all applicants under the Act and shall be incorporated by reference into these rules and regulations.

Annotation: Neb. Rev. Stat. §64-102 and §64-109.

004. COMMISSION REQUIREMENTS

004.01. Before being considered by the Secretary of State, every application for a Notary Public Commission shall include the following information and meet the

following requirements:

004.01A. All questions on the application form(s) must be answered.

004.01B. A fee of \$30 must be submitted.

004.01C. A passing examination score.

004.01D. Submission of a license surety bond for \$15,000

004.01E. U.S. Citizenship Attestation Form

004.01F. Non-resident Evidence of Employment Form

004.02. Renewal applications must be received no later than the date the commission expires. If the commission expiration date falls on a weekend or holiday the renewal must be received prior to that expiration date. If received after the expiration date the renewal shall be considered an initial application. A renewal application shall include the following:

004.02A. Notary Public Commission Renewal Form as referenced in appendix

004.02B. A fee of \$30.

004.02C. A bond form or bond rider that updates the initial bond.

004.02D. U.S. Citizenship Attestation Form

004.02E. Non-resident Evidence of Employment Form

004.03. No appointment shall be made if the applicant has been convicted of a felony.

004.04. No appointment shall be made if the applicant has been convicted of a crime involving fraud or dishonesty within the last five (5) years.

004.04A. A crime involving fraud or dishonesty means a violation of, or a conspiracy to violate, a civil or criminal law involving fraud, dishonesty, bribery, perjury, larceny, theft, robbery, extortion, forgery, counterfeiting, embezzlement, misappropriation of property, or any other offense adversely affecting such person's fitness to serve as a notary public.

004.04B. Conviction within the last five (5) years means being convicted by a court of law within the last five (5) years from the date the application is received.

004.05. An applicant must be a resident of the State of Nebraska or 1.) reside in one of the following states: Colorado, Iowa, Kansas, Missouri, South Dakota, or Wyoming and 2.) maintain a regular place of work or business in Nebraska.

004.05A. Non-resident applicants will be required to submit the form entitled "Evidence of Employment in Nebraska" listed under Section 3- Applicants and Other Forms 001.05.

004.05B. If an applicant is self-employed a written explanation must be attached to the "Evidence of Employment in Nebraska" form noted above.

Annotation: Neb. Rev. Stat. §§64-101 through 64-104

005. CHANGES TO NOTARY PUBLIC COMMISSION

005.01. Name Change

005.01A. A Notary Public may continue to use their current Notary Commission as it was issued until the expiration or termination of such commission. The Notary Public must continue to sign their name using the name as listed on the commission certificate.

005.01B. A Notary Public may change the name on the Notary Commission by filling out the "Notary Public Request to Change Record" form and submitting a fee of \$30.00. A bond issued under the new name must accompany the form.

005.02. Address Change

005.02A. A Notary Public must update their address when moving by filling out and submitting the “Notary Public Request to Change Record” form. 005.02B. No fee will be assessed for updating address information.

005.03. Employment Change

005.03A. If a non-resident is terminated from a regular place of work or business in Nebraska a Notary Public must relinquish their Notary Public Commission by returning the commission certificate and seal to the Secretary.

005.04. Signature Change

005.04A. A Notary Public may change their signature by filing out a new “Initial Application for a Notary Public” form.

005.04B. The Notary Public Examination is only valid for 2 years and by applying anew the Notary Public may have to re-test.

Annotation: Neb. Rev. Stat. §64-101 and §64-105.04

006. NOTARY PUBLIC EXAMINATION

006.01. The Notary Public Examination shall consist of questions aimed at determining whether the applicant has the reasonably necessary knowledge, experience, and competency to engage in and perform the duties of a Notary Public. An applicant must score 85% or better to pass the exam.

006.01A. Knowledge of the Notary Public Act and laws related to or affecting notarial work, including but not limited to:

006.01A1. Provisions of Neb. Rev. Stat. §§64-101 through 64-118 the Nebraska Notary Public statutes,

006.01A2. Uniform Recognition of Acknowledgements Act Neb. Rev. Stat §§64-209 through 64-215 and any other relevant statutes,

006.01A3. These Rules and Regulations.

006.02. The written examination will be an open resources test sent to the applicant upon receipt of the \$30.00 fee and a completed application.

006.03. Applicants shall have three attempts at passing the Notary Public Examination. If the applicant does not pass the second exam they must wait at least 30 days before re-taking the exam. If the applicant does not pass the test after three attempts the applicant shall be considered incompetent to receive a Notary Public commission in the State of Nebraska, and shall not be eligible to take the exam again.

006.03A. A passing exam score shall be valid for 2 years from the date of examination.

006.03B. If a passing exam score is not used within 2 years the applicant only has the remainder of prior opportunities to retake the exam.

006.04. The examination may be completed electronically if authorized by the Secretary.

Annotation: Neb. Rev. Stat. §64-101.01

007. ALLEGED MALFEASANCE AGAINST NOTARIES PUBLIC

007.01. In investigating an alleged malfeasance against a notary public, the Secretary must consider the totality of the offense, facts, and circumstances in each individual case.

007.02. Factors Considered

007.02A. While evaluating an alleged malfeasance to determine if it should be set for hearing or recommend to a stipulation process, the Secretary may consider a variety of factors, including, but not limited to, the following:

007.02A1 Nature and severity of the act, offense or crime under consideration.

007.02A2 Number and/or variety of current violations.

007.02A3. Evidence pertaining to the requisite honesty, credibility, truthfulness, and integrity of the Notary Public.

007.02A4 Actual or potential harm to the general public, group, individual or customer.

007.02A5 History of complaints received by the Secretary.

007.02A6 Prior disciplinary record or warning from the Secretary.

007.03. Discipline

007.03A. Stipulations are a voluntary agreement between the Secretary and Notary Public. A stipulation will be sought in lieu of setting a hearing to simplify the discipline process and provide cost savings to the Secretary.

007.03A1. Stipulations will include the following: statement of facts, acknowledgment of malfeasance, and a penalty.

007.03A2. Stipulations must be in writing and signed by the Secretary and Notary Public.

007.03B. Total Revocation means the Notary Public Commission is revoked and cannot ever be reinstated.

007.03B1. The following acts of malfeasance will likely result in the total revocation of a Notary Public Commission:

007.03B1a. The signor was not in the physical presence of the Notary Public at the time of the Notarial act.

007.03B1b. The signor was not personally known to the Notary Public or identified by the Notary Public through satisfactory evidence during the Notarial act.

007.03B1c. A Notary Public engaged in the unauthorized practice of law. This would include using the term “notario publico” or any non-English equivalent term in a manner which misrepresents the authority of the Notary Public.

007.03B1d. A Notary Public permitting another person to use the Notary Public’s official seal or official seal embosser.

007.03B1e. A Notary Public being convicted of a felony or crime involving fraud or dishonesty while commissioned.

007.03C. If revoked the Notary Public Commission and seal must be returned to the Secretary’s office.

007.03D. Temporary Revocation means a revocation of the Notary Public Commission for as little as one month or as long as 4 years.

007.03D1. The following acts of malfeasance will likely result in the temporary revocation of a Notary Public Commission:

007.03D1a. Notarizing a document in which the Notary Public has a personal interest.

007.03D1b. A Notary Public making a materially false statement on the application.

007.03D1c. Failure of the Notary Public to maintain the required bond.

007.03D2. During the revocation the Notary commission and seal must be returned to the Secretary’s office.

007.03E. An Admonishment will be issued to a Notary Public and notated in their

paper and electronic file when the Secretary feels that the alleged malfeasance rises to the level of warning but not revocation.

007.03E1. The following acts of malfeasance will likely result in an official warning to the Notary Public:

007.03E1a. A Notary Public overlooks changing the County or State of the Notarial document.

007.03E1b. A Notary Public Notarizes a document with blanks.

007.03E2. An official admonishment will not hinder the Notary Public from performing their duties.

Annotation: Neb. Rev. Stat. §64-105

008. FEES

008.01. The application fee is \$30.00, which includes affixing the State Seal to the commission and approving the bond for the Notary Public.

008.01A. A refund of the application fee will only be issued if requested by the applicant upon failure of the third examination and within two (2) years of initial payment.

008.02. The fee to change the name on a commission is \$30.00.

008.03. Duplicate commissions will be provided at a cost of \$15.00.

008.04. Notaries Public may charge the following fees for their services:

008.04A. For each protest: \$1.00, For recording the same, \$2.00

008.04B. For each notice of protest: \$2.00

008.04C. For taking affidavits and seal: \$2.00

008.04D. For administering oath or affirmation: \$2.00

008.04E. For each certificate and seal: \$5.00

008.04F. For each mile traveled in serving notice based on the rate established by the Department of Administrative Services

Annotation: Neb. Rev. Stat. §33-102 and 33-133

APPENDIX Title 433 Chapter 6

Initial Application for Notary Public Commission

U.S. Citizenship Attestation Form

Bond Form

Renewal Application for Notary Public Commission

Evidence of Employment in Nebraska

Notary Public Request to Change Record

Bond Rider