

ENROLLED ACT NO. 50, SENATE

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to notaries, notarial officers and notarial acts; amending the Wyoming Uniform Law on Notarial Acts; amending and repealing laws on notaries public; adopting provisions of the Model Notary Act; amending notary related statutes; specifying a means to satisfy acknowledgements; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 34-26-201 through 34-26-206 and 34-26-301 through 34-26-304 are created to read:

ARTICLE 2
POWERS OF NOTARIAL OFFICERS

34-26-201. Powers and prohibitions.

(a) A notarial officer is empowered to perform the acts described in W.S. 34-26-101(b)(iii).

(b) A notarial officer, shall not perform a notarial act if the principal:

(i) Is not in the notarial officer's presence at the time of notarization or is not personally known to the notarial officer;

(ii) Is not personally known to the notarial officer or identified by the notarial officer through satisfactory evidence.

(c) A notarial officer may certify the affixation of a signature by mark on a document presented for notarization if:

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(i) The mark is affixed in the presence of the notarial officer and two (2) witnesses unaffected by the document;

(ii) Both witnesses sign their own names beside the mark;

(iii) The notarial officer writes below the mark: "Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notarial officer under W.S. 34-26-201(c)"; and

(iv) The notarial officer notarizes the signature by mark through an acknowledgment, jurat or signature witnessing.

(d) A notarial officer may sign the name of a person physically unable to sign or make a mark on a document presented for notarization if:

(i) The person directs the notarial officer to do so in the presence of two (2) witnesses unaffected by the document;

(ii) The notarial officer signs the person's name in the presence of the person and the witnesses;

(iii) Both witnesses sign their own names beside the signature;

(iv) The notarial officer writes below the signature: "Signature affixed by notarial officer in the presence of (names and addresses of person and two (2) witnesses) under W.S. 34-26-201(d)"; and

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(v) The notarial officer notarizes the signature through an acknowledgment, jurat or signature witnessing.

(e) It shall be lawful for any notarial officer who is a stockholder, director, officer or employee of a bank or other corporation to take the acknowledgment of any party to any written instrument executed to or by said corporation, or to administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or to protest for nonacceptance, or nonpayment, bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by any such bank or other corporation.

34-26-202. Avoidance of influence.

(a) While acting as a notarial officer, a notarial officer who is not an attorney licensed to practice in Wyoming under W.S. 33-5-101 through 33-5-117 shall not influence a person either to enter into or avoid a transaction involving a notarial act by the notarial officer.

(b) In his capacity as a notarial officer, a notarial officer has neither the duty nor the authority to investigate, ascertain or attest the lawfulness, propriety, accuracy or truthfulness of a document or transaction involving a notarial act.

34-26-203. False certificate.

(a) A notarial officer shall not execute a certificate containing information known or believed by the notarial officer to be false.

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(b) A notarial officer shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notarial officer's place of business.

34-26-204. Improper documents.

(a) A notarial officer shall not notarize a signature on a document without notarial certificate wording.

(b) A notarial officer shall neither certify nor authenticate a photograph.

34-26-205. Intent to deceive.

A notarial officer shall not perform any official action with the intent to deceive or defraud.

34-26-206. Testimonials.

A notarial officer shall not use the official notarial officer title or seal to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

ARTICLE 3
NOTARIAL OFFICER FEES

34-26-301. Imposition and waiver of fees.

For performing a notarial act, a notarial officer may charge the maximum fee specified in W.S. 34-26-302, charge less than the maximum fee or waive the fee.

34-26-302. Fees for notarial acts.

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(a) The maximum fees that may be charged by a notarial officer for notarial acts are:

(i) For taking an acknowledgment, two dollars (\$2.00) per signature;

(ii) For administering an oath or affirmation without a signature, two dollars (\$2.00) per person;

(iii) For jurats, two dollars (\$2.00) per signature;

(iv) For witnessing or attesting a signature, two dollars (\$2.00) per signature;

(v) For certifying or attesting copies, two dollars (\$2.00) per page certified;

(vi) For taking a verification upon oath or affirmation, two dollars (\$2.00) per certificate;

(vii) For noting a protest of negotiable instruments, two dollars (\$2.00) per protest.

(b) A notarial officer may charge a travel fee when traveling to perform a notarial act if:

(i) The notarial officer and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(ii) The notarial officer explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee, if any, and neither specified nor mandated by law.

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34-26-303. Payment prior to act.

(a) A notarial officer may require payment of any fees specified in W.S. 34-26-302 prior to performance of a notarial act.

(b) Any fees paid to a notarial officer prior to performance of a notarial act are nonrefundable if:

(i) The act was completed; or

(ii) In the case of travel fees paid in compliance with W.S. 34-26-302(b), the act was not completed for reasons stated in W.S. 34-26-202(b)(i) or (ii) after the notarial officer had traveled to meet the principal.

34-26-304. Fees of employee notarial officer.

(a) An employer may prohibit an employee who is a notarial officer from charging for notarial acts performed as part of the employee's employment.

(b) A governmental employer who has absorbed an employee's costs in becoming or operating as a notarial officer shall require any fees collected for notarial acts performed as part of the employee's employment either to be waived or surrendered to the employer to support public programs.

Section 2. W.S. 1-2-102(a) by creating a new paragraph (xv) and (b), 2-11-105(a), 6-5-114, 9-1-305(a)(iii), 29-7-202(a), 32-1-105 by creating a new subsection (e), 34-2-133(a), 34-5-101, 34-5-104, 34-26-101(b)(iii), (iv), by creating new paragraphs (vii)

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through (xxii) and by creating a new subsection (c), 34-26-102(c) and (d), 34-26-103(a)(i) and by creating a new subsection (d), 34-26-104(a)(i), 34-26-106(a)(i), 34-26-107(a) and (c), 34.1-3-505(b) and 41-7-804(a)(i) are amended to read:

1-2-102. Officers authorized to administer.

(a) The following officers are authorized to administer oaths:

(xv) Notarial officers.

(b) Except for notarial officers, officers listed in this section are authorized to administer oaths, but are not authorized to perform other notarial acts as defined in W.S. 34-26-101(b)(iii), unless specified otherwise in W.S. ~~32-1-105(e) or~~ 34-26-103(a).

2-11-105. Procedure when foreign law does not require probate; filing, recording and effect.

(a) When a duly authenticated copy of a will from any state or country where probate is not required by the laws of the state or country, with a duly authenticated certificate of the legal custodian of the original will that the same is a true copy and that the will has become operative by the laws of the state or country, and when a copy of a notarial will in possession of a ~~notary~~notarial officer in a foreign state or country entitled to the custody thereof (the laws of which state or country require that the will remain in the custody of the ~~notary~~notarial officer), duly authenticated by the ~~notary~~notarial officer, is presented by the executor or other persons interested to the proper court in this state, the court shall take the proofs as may be appropriate.

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County of)

I,, being first duly sworn, upon my oath depose and say I am the lawful owner (or duly authorized agent of the lawful owner) of (description of male animal).

On (or between) the day of, A.D. (year) and the day of, (year), the services of the male animal were had upon the following described female animals:

The above services were rendered at the request of (for and on behalf of), the lawful owner of the female animals.

The fee agreed upon for these services was dollars.

There is now due to from for these services, the sum of dollars.

Ninety (90) days have not elapsed since the date of the services, and claim a breeder's lien on the property for this amount.

Subscribed in my presence and sworn to before me this day of, A.D. (year).

~~Notary Public~~ Notarial Officer.

My Commission expires _____

32-1-105. Powers and jurisdiction.

(e) In addition to the powers and authority granted to notaries by this chapter, every notary receiving a commission under this chapter shall be a notarial officer

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record in the office of the county clerk ~~and ex officio register of deeds~~ for county,, on (date), and appears in the records of that office in County as recorded in book page of the records; that I am now in possession of such real estate and claim title to the same by virtue of such tax deed; that I have been in possession of such real estate for a continuous period of not less than six (6) months immediately preceding the date of this affidavit; and that the facts concerning the possession of such real estate from the date of recording the tax deed to the date of this notice are, insofar as known to me, as follows:

....
....

Subscribed and sworn to before me this day of, (year).

.....

~~Notary Public~~ Notarial Officer in and for

..... County
..... (state)

34-5-101. When executed out of state; exceptions.

All deeds and conveyances of real estate given and recorded in the state of Wyoming prior to January 1, 1925, the execution of which shall have been acknowledged before a ~~notary public~~ notarial officer out of this state, where the certificate of official character attached to such deeds or other conveyance fails to state that such deed or conveyance was executed and acknowledged according to the laws of the state or territory in which the same was executed, shall be deemed as valid and binding as if such certificate had contained the statement aforesaid, and

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shall be so construed by the courts, and the record thereof shall have the same force and effect as if such certificate had contained said statement; provided, that such record shall in no wise affect the right or title of any person acquired in good faith and for a valuable consideration before the said January 1, 1925; and provided, further, that this section shall not be construed to affect any judgment or decree rendered by any court of the state before that time.

34-5-104. Certificate of acknowledgment; incomplete.

Any conveyance of real estate made ten (10) years or more prior to January 1st, A.D. 1935, purporting to be acknowledged before any justice of the peace, within or without the state of Wyoming, where such justice of the peace did not state in his certificate of acknowledgment the date of expiration of his office, or where no certificate, or a defective certificate is attached to such deed by the county clerk or clerk of court of the county of such justice of the peace as is required by law in case such acknowledgment is taken before a justice of the peace outside of the state of Wyoming; and any conveyance of real estate made ten (10) years or more prior to January 1st, A.D. 1935, purporting to be acknowledged before any ~~notary public~~ notarial officer, where such ~~notary public~~ notarial officer did not attach his seal to such certificate of acknowledgment, or did not state therein the expiration of the time of his commission; and any conveyance of real estate made ten (10) years or more prior to the 1st day of January, A.D. 1935, where such conveyance does not purport to be properly witnessed; and any conveyance of real estate made ten (10) years or more, prior to the first day of January, A.D. 1935, purporting to be executed by any corporation, where there is any defect or irregularity in the execution or acknowledgment thereof, shall, if the same

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has been heretofore recorded ten (10) years or more prior to January 1st, 1935, in the office of the county clerk of the county where the real estate therein conveyed is situate, be deemed as valid and as effective and binding as though the defects and irregularities therein, herein mentioned, did not exist and as though in these respects the same had been executed in full accordance with the laws of this state, and the record, or the certified copy thereof, shall be admitted in evidence in all actions or proceedings with the same force and effect as though the defects and irregularities therein, herein mentioned, did not exist, and as though in these respects the same had been executed in full accordance with the laws of this state.

34-26-101. Short title; definitions; acknowledgements.

(b) As used in this act:

(iii) "Notarial act," ~~means any act that a notarial officer of this state is authorized to perform, and includes taking an acknowledgement, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument;~~ "notarize" and "notarization" mean:

- (A) Taking an acknowledgment;
- (B) Administering an oath or affirmation;
- (C) Taking a verification upon oath or affirmation;
- (D) Witnessing or attesting a signature;

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(E) Certifying or attesting a copy;

(F) Noting a protest of a negotiable instrument;

(G) Performing a jurat; and

(H) Performing other acts so authorized by the laws of this state.

(iv) "Notarial officer" means ~~a notary public or other officer~~ any person authorized to perform notarial acts under W.S. 34-26-103 and includes persons commissioned as notaries public under W.S. 32-1-101 through 32-1-109;

(vii) "Affirmation" means a notarial act, or part thereof, which is legally equivalent to an oath and in which an individual at a single time and place:

(A) Is personally known to the notarial officer or identified by the notarial officer through satisfactory evidence; and

(B) Makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and without invoking a deity or using any form of the word "swear".

(viii) "Commission" means both to empower to perform notarial acts and the written evidence of authority to perform those acts;

(ix) "Commissioned notarial officer" means a person who has been issued a commission to perform notarial acts by the secretary of state pursuant to W.S. 32-1-101

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through 32-1-109. A commissioned notarial officer is a notary public;

(x) "Credible witness" means an honest, reliable and impartial person who personally knows an individual appearing before a notarial officer and takes an oath or affirmation from the notarial officer to vouch for that individual's identity;

(xi) "Jurat" means a notarial act in which an individual at a single time and place:

(A) Is personally known to the notarial officer or identified by the notarial officer through satisfactory evidence;

(B) Signs the document in the presence of the notarial officer, as provided in subparagraph (xxi)(A) of this subsection; and

(C) Takes an oath or affirmation from the notarial officer vouching for the truthfulness or accuracy of the signed document.

(xii) "Notarial certificate" and "certificate" means the certificate required by W.S. 34-26-107;

(xiii) "Notary public" and "notary" mean a commissioned notarial officer;

(xiv) "Oath" means a notarial act, or part thereof, which is legally equivalent to an affirmation and in which an individual at a single time and place:

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(A) Is personally known to the notarial officer or identified by the notarial officer through satisfactory evidence; and

(B) Makes a vow of truthfulness or fidelity on penalty of perjury while invoking a deity or using any form of the word "swear".

(xv) "Personal knowledge of identity," "personally known to the notarial officer" and "personally knows" mean familiarity with an individual resulting from interactions with that individual over a period of time or any other reasonable corroboration sufficient to dispel any reasonable uncertainty that the individual has the identity claimed;

(xvi) "Principal" means:

(A) A person whose signature is notarized;
or

(B) A person, other than a credible witness, taking an oath or affirmation from the notarial officer.

(xvii) "Regular place of work or business" means a stationary office or workspace where one spends all or some of one's working or business hours;

(xviii) "Satisfactory evidence," when referring to proof of identity, means identification of an individual based on:

(A) The notarial officer's personal knowledge of identity;

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(B) At least one (1) current document issued by a federal, state or tribal government agency bearing the photographic image of the individual's face and signature and a physical description of the individual, though a properly stamped passport without a physical description is acceptable; or

(C) The oath or affirmation of one (1) credible witness unaffected by the document or transaction who is personally known to the notarial officer and who personally knows the individual, or of two (2) credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notarial officer documentary identification as described in subparagraph (B) of this paragraph.

(xix) "Seal" means a device for affixing on a document an image containing a notarial officer's name, jurisdiction, commission expiration date and other information related to the notarial officer's commission and identity as required by W.S. 32-1-106;

(xx) "Verification of fact" means a notarial act in which a notarial officer reviews public or vital records to ascertain or confirm any of the following facts regarding a person:

(A) Date of birth or death;

(B) Name of parent, offspring or sibling;

(C) Date of marriage or divorce; or

(D) Name of marital partner.

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(xxi) "Personally appear," "in the presence of," and "appear before" mean for all purposes of this act except as used in paragraph (xi) of this subsection that:

(A) The principal is in the notarial officer's presence at the time of notarization; or

(B) The principal confirmed to the notarial officer that the principal signed the document.

(xxii) "This act" means W.S. 34-26-101 through 34-26-304.

(c) A properly executed jurat satisfies any requirement for an acknowledgement.

34-26-102. Notarial acts.

(c) In witnessing or attesting a signature the ~~notarial officer~~ principal shall determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein be personally known to the notarial officer or identified through satisfactory evidence, shall appear in person before the notarial officer and shall make the signature in the presence of the notarial officer.

(d) A notarial officer may certify or attest to a copy of a document or other item except that a notarial officer shall not certify or attest to a copy of a vital record, public record or publicly recordable document. In certifying or attesting a copy of a document or other item under this subsection, the notarial officer shall:

(i) Have the document in his presence;

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(ii) Copy or supervise the copying of the document or other item using a photographic or electronic copying process; and

(iii) Determine that the proffered copy is a full, true and accurate transcription or reproduction of that which was copied.

34-26-103. Notarial acts in Wyoming.

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

(i) A ~~notary public of this state~~ person commissioned as a notary public under W.S. 32-1-101 through 32-1-109;

(d) All persons authorized to perform notarial acts under subsection (a) of this section may perform such acts without a commission except persons listed under paragraph (a)(i) of this section.

34-26-104. Notarial acts in other jurisdictions of the United States.

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

(i) A ~~notary public~~ notarial officer of that jurisdiction;

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34-26-106. Foreign notarial acts.

(a) A notarial act, including the acknowledgment of any deed, mortgage or conveyance, has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under the authority of a foreign nation or its constituent units or a multi-national or international organization by any of the following persons:

(i) A ~~notary public or notary~~ notarial officer;

34-26-107. Certificate of notarial acts; presumptive evidence.

(a) A notarial act shall be evidenced by a certificate signed and dated by a notarial officer. The certificate shall include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of the office. If the officer is a ~~notary public~~ commissioned notarial officer, the certificate shall also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it shall also include the officer's rank.

(c) ~~By executing~~ In addition to the presumptive evidence established by W.S. 32-1-107 and as otherwise provided in this chapter, a certificate of a notarial act, ~~the notarial officer certifies that the officer has made the determinations required by W.S. 34-26-102.~~ shall be received as presumptive evidence that:

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(i) If the instrument to which the certificate is affixed was executed by natural persons acting in their own right, that such person or persons personally appeared before the notarial officer, were known to the officer to be the person or persons described in and who executed such instrument, and that the person or persons acknowledged that the document was acknowledged freely and voluntarily;

(ii) If the instrument to which the certificate is affixed was executed by an attorney-in-fact acting for a natural person, that the attorney personally appeared before the notarial officer, was known by the officer to be the party who executed the instrument on behalf of the natural person and that the attorney acknowledged that the instrument was executed and acknowledged as the free and voluntary act of the natural person;

(iii) If the instrument to which the certificate is affixed was executed by a corporation or other entity which is not a natural person, that the president or other official who signed the instrument on behalf of the entity appeared before and was personally known to the officer making the certificate and was duly sworn and upon oath represented that the person was the president or other officer or agent of the corporation or entity, that the seal affixed to the instrument is the corporate seal of the corporation or entity, that the instrument was signed and sealed on behalf of the corporation or entity by the authority of the board of directors or trustees thereof and that the officer who executed the instrument acknowledged the instrument to be the free act and deed of the corporation or entity. If the corporation or entity does not have a corporate seal, a recital of that fact shall be inserted at the end of the certificate by the notarial officer.

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34.1-3-505. Evidence of dishonor.

(b) A protest is a certificate of dishonor made by a United States consul or vice consul, or a ~~notary public~~ notarial officer or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

41-7-804. Creation; procedures generally.

(a) The procedure for creating and incorporating a district under the provisions of this act shall be in accordance with the following method, to wit:

(i) A public irrigation district may be organized under the provisions of this act by filing in the office of the state engineer a petition in compliance with the requirements hereinafter set forth, and the approval of said petition by the state engineer of Wyoming as hereinafter provided. Said petition shall be addressed to said state engineer and state in substance that it is the intent and purpose of the petitioners by said petition to create a district under the provisions of this act, subject to approval by said state engineer. Said petition must contain: (A) the name of the proposed district. If the proposed district is to engage in the business of owning or operating irrigation works, such name shall include the words "public irrigation district." If the proposed district is also to engage in the business of acquiring, manufacturing or selling or distributing electric power,

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the name of the proposed district shall include the words "public irrigation and power district"; (B) the object and purpose of the system proposed to be constructed, together with a general description of the nature, location and method of operation of proposed irrigation works, and of proposed power systems if owning and operating power plants or systems is to be a part of the business of the proposed district; (C) a description of the lands constituting the proposed district and of the boundaries thereof; (D) the location of the principal place of business of the proposed district; (E) a statement that the proposed district shall not have the power to levy taxes; (F) the names and addresses of the members of the board of directors of the proposed district (not less than five (5) nor more than thirteen (13) who shall serve until their successors are elected and qualified as provided for in this act. In the petition, the directors named shall be divided as nearly as possible into three (3) equal groups, the members of the first group to hold office until their successors, elected at the first district election thereafter, shall have qualified; the members of the second group to hold office until their successors, elected at the second district election thereafter, shall have qualified, and the members of the third group to hold office until their successors, elected at the third district election thereafter, shall have qualified. Thereafter all directors elected shall serve for a term of three (3) years and until their successors are elected and qualified. After the name of each director shall be stated to which of said three (3) groups he belongs. Said petition must be signed by twenty-five percent (25%) of the freeholders or entrymen of the area constituting said proposed district, or by their duly authorized representatives. On each petition, set opposite the signature of each petitioner, shall be stated his or her name and post-office address. To each sheet for petitioners' signatures shall be attached a full and

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Section 4. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk