



ALABAMA NOTARY PUBLIC STATUTES

TITLE 36. PUBLIC OFFICERS AND EMPLOYEES. CHAPTER 20. NOTARIES PUBLIC ARTICLE 1. GENERALLY

Section 36-20-1 Appointment and commissioning; term of office; fee of probate judge for issuance of notary commissions; report to secretary of state by probate judge as to notaries appointed and commissioned.

A competent number of notaries public for the state at large shall be appointed and commissioned by the judges of probate of the several counties of the state and shall hold office for four years from the date of their commissions. Such notaries public shall preform all the acts and exercise all authority under the general laws of the State of Alabama. The jurisdiction of such notaries public shall not be limited to the counties of their residence and shall extend to any county of the state. The judges of probate shall collect a fee of ten dollars (\$10) for each such notary commission issued. The judges of probate shall also report to the Secretary of State the name, county of residence, date of issuance and date of expiration of the commission of each notary public appointed and commissioned under this subsection.

- (1) All existing notaries public functioning on the effective date of this article shall continue to function pursuant to their existing authority for the remainder of their existing commission.

Section 36-20-71 Bond.

Notaries public shall give bond with sureties, to be approved by the judge of probate of the county of their residence, in the sum of twenty-five thousand (\$25,000), payable to the State of Alabama and conditioned to faithfully discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond must be executed, approved, filed and recorded in the office of the judge of probate before they enter on the duties of such office.

- (1) All existing notaries public functioning on the effective date of this article shall continue to function pursuant to their existing authority for the remainder of their existing commission.

Section 36-20-72 Seal.

For the authentication of his or her official acts, each notary shall provide a seal of office, which shall present, by its impression or stamp, the name, office, and the state for which he was appointed.

Section 36-20-73 Powers.

Notaries public may do all the following:

- (1) Administer oaths in all matters incident to the exercise of their office.
- (2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office;
- (3) Demand acceptance and payment of bills of exchange, promissory notes and all other writings which are governed by the commercial law as to days of grace, demand and notice of nonpayment and protest the same for nonacceptance or nonpayment and to give notice thereof as required by law.

(4) Exercise such other powers as, according to commercial usage or the laws of this state, as may belong to notaries public.

Section 36-20-74 Fees.

Notaries public are entitled to the sum of five dollars (\$5) for carrying out any of the enumerated powers in section 36-20-73.

Section 36-20-75 Performance or assumption of authority to perform notarial act without commission

Any person who, having been a notary, willfully preforms or assumes the authority to preform a notarial act after his or her commission expires, with knowledge that his or her commission has expired, or any person who without a notary's commission assumes the authority and preforms a notarial act shall be guilty of a Class C misdemeanor.

ARTICLE 2. CONFLICTED LAWS ARE REPEALED.

All laws or parts of laws which conflict with this act are repealed. Specifically, Article 1, consisting of Sections 36-20-1 to 36-20-11, inclusive, of Chapter 20 of Title 36, Code of Alabama 1975, relating to the employment of notaries public by counties, and Article 2, consisting of Sections 36-20-30 to 36-20-32, inclusive, of Chapter 20 of Title 36, Code of Alabama 1975, relating to employment of notaries public for the state at large, are repealed.

ARTICLE 3. CIVIL LAW NOTARIES.

Section 36-20-50 Definitions.

For purposes of this article, the following terms shall have the following meanings:

- (1) AUTHENTIC ACT. An instrument executed by a civil law notary referencing this article, which includes the particulars and capacities to act of transacting parties, a confirmation of the full text of any necessary instrument, the signatures or their legal equivalent thereof of any transacting parties, the signature and seal of a civil law notary, and such other information prescribed by the Secretary of State.
- (2) BREVET. A private document in which the civil law notary attests to the authenticity of the signature or signatures, a fact or a contract. Brevets may be used, among other things, to certify signatures, prescribe oaths, certify a translation or a copy of a document that is not part of the civil law notaries protocol, or certify the identity of any object or thing.
- (3) CIVIL LAW NOTARY. A person who is admitted to the practice of law in this state, who has practiced law in a United States jurisdiction for at least five years, and who is appointed by the Secretary of State as a civil law notary.
- (4) MINUTE. An authentic act written by a civil law notary which contains the exact narration of a finding of fact or facts influencing the rights of private parties of which the civil law notary has personal knowledge and that due to the nature of the authentic act does not constitute a contract or juridical business. The types of minutes include, but may not be limited to, the following:
 - a. General Minutes. A minute providing a certification of general facts known to the civil law notary.
 - b. Minutes of Notoriety. A minute providing a certification that a fact is generally known by the people who have a direct or close relationship with the factual situation or its consequences, or who belong to the social or economic environment of the person affected by a particular fact.
 - c. Minutes of Correction. A minute for the purpose of rectifying minor errors in form or omissions made by the civil law notary in prior authentic acts.

d. Minutes of Addition. A minute for the purpose of including a document in the civil law notary's protocol in order to provide for preservation of the document; limited memorialization of domestic private documents and/or execution of foreign legal documents.

(5) NOTARIAL DEED. An authentic act in which contains a contract, transaction or other juridical act and which may also include the certification of facts. Notarial deeds may involve either a single party, as in the case of a will, or multiple parties, as with a contract.

Section 36-20-51 Civil law notaries.

(a) The Secretary of State shall have the power to appoint civil law notaries and administer this article.

(b) A civil law notary is authorized to issue brevets, minutes, and notarial deeds and thereby may authenticate or certify any document, transaction, event, condition or occurrence. A civil law notary may also administer oaths and make certificates thereof when necessary for execution of any writing or document to be attested, protested, or published under the seal of a notary public. A civil law notary may also take acknowledgments of deeds and other instruments of writing for record.

(c) The authentic acts, and oaths and acknowledgments of a civil law notary shall be chronologically recorded in the civil law notary's protocol in a manner prescribed by the Secretary of State.

(d) The civil law notary may, without prejudice to his or her duty to ensure professional confidentiality, issue certified copies of authentic acts to individuals who, in his or her opinion, have a legitimate interest in the contents of an authentic act. Certified copies of authentic acts shall have the same legal force and effect as the original.

(e) A civil law notary is obligated to do the following:

(1) Draw up authentic acts in accordance with their knowledge and comprehension and such documents shall clearly reflect the wishes of the contracting parties duly adopted to legal requirements necessary for the documents to have full legal force and effect.

(2) Represent the transaction itself in the creation of the authentic act. For this purpose, the civil law notary acts as an intermediary where there are multiple parties to a transaction.

(3) Use his or her best efforts to advise all parties to the transaction equally, accurately, fully and impartially regarding the nature and legal consequences of the transaction.

(4) Refrain from representing any party in any matter arising from or related to the civil law notary's authentic act.

Section 36-20-52 Rules of procedure.

The Secretary of State may adopt rules prescribing all of the following:

(1) The form and content of authentic acts, oaths, acknowledgments, and signatures and seals or their legal equivalents.

(2) Procedures for the permanent archiving of authentic acts, maintaining records of acknowledgments and oaths, and procedures for the administration of oaths and taking of acknowledgments.

(3) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this article.

(4) Educational requirements and procedures for testing applicants' knowledge of all matters relevant to the appointment, authority, duties or legal or ethical responsibilities of a civil law notary.

- (5) Procedures for the disciplining of civil law notaries, including, but not limited to, the suspension and revocation of appointments for failure to comply with the requirements of this article or the rules of the Secretary of State, or for misrepresentation or fraud regarding the civil law notary's authority, the effect of the civil law notary's authentic acts, or the identities or acts of the parties to a transaction.
- (6) Bonding or errors and omissions insurance requirements, or both, for civil law notaries.
- (7) Other matters necessary for administering this article.

Section 36-20-54 Powers of civil law notaries; construction of article.

- (a) The powers of civil law notaries include, but are not limited to, all of the powers of a notary public under the laws of this state.
- (b) This article shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

Section 36-20-55 Certification by Secretary of State.

If certification of a civil law notary's authority is necessary for a particular document or transaction, it must be obtained from the Secretary of State. Upon receipt of a written request from a civil law notary and the fee prescribed by the Secretary of State, the Secretary of State shall issue a certification of the civil law notary's authority, in a form prescribed by the Secretary of State, which shall include a statement explaining the legal qualifications and authority of a civil law notary in this state. The fee prescribed for the issuance of the certification under this section or an apostille shall not exceed twenty dollars (\$20) per document. The Secretary of State may adopt rules to implement this section.

ARTICLE 4. EMPLOYMENT OF NOTARIES PUBLIC.

Section 36-20-70 Appointment and Commissioning; terms, jurisdiction; fees and reports of judge of probate.

(a) A competent number of notaries public for the state at large shall be appointed and commissioned by the judges of probate of the several counties of the state and shall hold office for four years from the date of their commission. Notaries public shall perform all the acts and exercise all authority under the general laws of the State of Alabama. The jurisdiction of the notaries public shall not be limited to the counties of their residence and shall extend to any county of the state. The judges of probate shall collect a fee of ten dollars (\$10) for each notary commission issued. The judges of probate shall also report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned under this subsection.

(b) All existing notaries public functioning on January 1, 2012 shall continue to function pursuant to their existing authority for the remainder of their existing commission.

Section 36-20-71 Bond.

(a) Notaries public shall give bond with sureties, to be approved by the judge of probate of the county of their residence, in the sum of twenty-five-thousand dollars (\$25,000), payable to the State of Alabama, and conditioned to faithfully discharge he duties of such office so long as approved, filed, and recorded in the office of the judged of probate in the county of their residence, before they enter on the duties of such office.

(b) All existing notaries public functioning on January 1, 2012, shall continue to function pursuant to their existing bond for the remainder of their existing commission.

Section 36-20-72 Seal.

For the authentication of his or her official acts, each notary shall provide a seal of office, which shall present, by its impression or stamp, the name, office, and the state for which he or she was appointed.

Section 36-20-73 Powers.

Notaries public may do all of the following:

- (1) Administer oaths in all manners incident to the exercise of their office.
- (2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office.
- (3) Demand acceptance and payment of bills of exchange, promissory notes, and all other writings which are governed by the commercial law as to days of grace, demand, and notice of nonpayment and protest the same for nonacceptance or nonpayment and to give notice thereof as required by law.
- (4) Exercise such powers, according to commercial usage of the laws of this state, as may belong to notaries public.

Section 36-20-74 Fees.

Notaries public are entitled to the sum of five dollars (\$5) for carrying out any of the enumerated powers in section 36-20-73.

Section 36-20-75 Violations.

Any person who, having been a notary, willfully performs or assumes the authority to perform a notarial act after his or her commission expires, with knowledge that his or her commission has expired, or any person who without a notary's commission assumes the authority and performs a notarial act shall be guilty of a Class C misdemeanor.

**TITLE 35. PROPERTY
CHAPTER 4 CONVEYANCES AND CREATION OF ESTATES.**

Section 35-4-20 Conveyance required to be in writing; signature; attestation by witnesses.

Conveyances for the alienation of lands must be written or printed, or partly written and partly printed, on parchment or paper, and must be signed at their foot by the contracting party or his agent having a written authority; or, if he is not able to sign his name, then his name must be written for him, with the words "his mark" written against the same, or over it; the execution of such conveyance must be attested by one witness or, where the party cannot write, by two witnesses who are able to write and who must write their names as witnesses; or, if he can write his name but does not do so and his name is written for him by another, then the execution must be attested by two witnesses who can and do write their names.

Section 35-4-21 Seal unnecessary.

A seal is not necessary to convey the legal title to land to enable the grantee to bring a civil action. Any instrument in writing, signed by the grantor or his agent having a written authority, is effectual to transfer the legal title to the grantee, if such was the intention of the grantor, to be collected from the entire instrument.

Section 35-4-22 Effect of writings importing to be under seal.

All writings which import on their face to be under seal are to be taken as sealed instruments and have the same effect as if the seal of the parties was affixed thereto.

Section 35-4-23 Acknowledgment – Operates as compliance with witness requirements.

The acknowledgment provided for in this article operates as a compliance with the requisitions of section 35-4-20 upon the subject of witnesses.

Section 35-4-24 Acknowledgment – Officers authorized to take in this state.

Acknowledgments and proofs of conveyances may be taken by the following officers within this state: Judges of the supreme court, the court of civil appeals, the court of criminal appeals, circuit courts and district courts, and the clerks of such courts; registers of the circuit court, judges of the court of probate, and notaries public.

Section 35-4-25 Officers holding stock in certain corporations.

An acknowledgment or proof of any deed, mortgage or other conveyance to or by a corporation, national banking association, building and loan association or savings and loan association at any time heretofore or hereafter taken by an officer authorized by law to take acknowledgments and proofs of conveyances and at that time owning or holding not more than one percent of the total issued and outstanding capital stock of such corporation, national banking association, building and loan association or savings and loan association, and not then holding any office in said corporation, national banking association or building and loan association shall have the same effect as if such officer did not hold or own any of such stock.

Section 35-4-26 Acknowledgement - Officers authorized to take outside Alabama; validity; certification.

(a) Acknowledgments, proofs of conveyances, and affidavits may be taken within the United States and beyond the State of Alabama, by judges and clerks of any federal court, judges and clerks of any state court of record in any state, notaries public, commissioners appointed by the Governor of this state, the commissioner of deeds for the state wherein the acknowledgment is taken, or by any commissioned officer of any of the Armed Forces of the United States. Beyond the limits of the United States, the acknowledgments, proofs, and affidavits may be taken by the judges of any court of record, mayor or chief magistrate of any city, town, borough, or county, by any diplomatic, consular, or commercial agent of the United States, notaries public, or by any commissioned officer of any of the Armed Forces of the United States.

(b) Notwithstanding any provision of this chapter, the acknowledgment of any instrument executed outside the State of Alabama which is in compliance with the manner and form prescribed by the laws of the place of its execution, is executed in a state, territory, or insular possession of the United States or the District of Columbia, and is verified by the official seal of the officer before whom it is acknowledged, shall have the same effect as an acknowledgment in the manner and form prescribed by the laws of this state for instruments executed within the state.

(c) All deeds, conveyances, deeds of trust, mortgages, mineral leases, marriage contracts, and other instruments in writing, affecting or purporting to affect title to any real estate or personal property situated in this state, which have been recorded or executed prior to August 1, 2004, and which may be defective or ineffectual because of the failure to have the form of acknowledgment as required by Section 35-4-29, shall be binding and effectual as though the instruments contained the required form of acknowledgment.

(d) In addition to the acknowledgment of instruments in the manner and form provided by this chapter, persons serving in or with the Armed Forces of the United States or

their dependents may acknowledge the same wherever located before any commissioned officer of any of the Armed Forces of the United States. The instrument may not be rendered invalid by the failure to state therein the place of execution or acknowledgment, but shall include the state in which the acknowledgment occurred. No authentication of the certificate of acknowledgment of the officer shall be required, but the officer taking the acknowledgment shall endorse thereon or attach thereto a certificate substantially in the following form:

"On this ____ day of _____, _____, before me, _____, the undersigned officer, personally appeared _____ (Serial No. _____) known to me or satisfactorily proven to be (serving in or with the Armed Forces of the United States) (a dependent of _____, Serial No. _____, a person serving in or with the Armed Forces of the United States) and to be the person whose name is subscribed to the within instrument, and acknowledgment before me on this day that, being informed of the contents of this instrument, he or she executed the same voluntarily on the day the same bears date. The undersigned does further certify that he or she is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the Armed Forces of the United States.

" _____

"Signature of Officer

" _____

"Rank and Serial No. of Officer and Command to which attached."

Section 35-4-27 Acknowledgment – Proof of official seal.

All deeds, powers of attorney and other instruments of conveyance, affidavits or contracts purporting to be acknowledged, proved or verified as prescribed by law, and which have been recorded or may hereafter be recorded in the office of the judge of probate of the proper county in this state, and transcripts thereof from such record shall be prima facie evidence that the seal of such officer acknowledging or attesting such instrument was his official seal and that it was affixed by him in his official capacity; and all such instruments and certified copies thereof shall have the same force and effect and shall be received in evidence in any court in this state without further proof of the due execution of such instrument or proof of the seal of any officer so certifying or attesting and that the same was affixed by him as his official seal, in his official capacity, whether he be an officer of this state or of any other state, territory or district of the United States.

Section 35-4-28 Acknowledgment -Powers of attorney, etc.

Powers of attorney or other instruments conferring authority to convey property or to enter satisfaction of mortgages or other liens may be proved or acknowledged and recorded in the same manner and must be received as evidence to the same extent as conveyances.

Section 35-4-29 Form of acknowledgment.

The following are substantially the forms of acknowledgment to be used in this state, on conveyances and instruments of every description admitted to record:

ACKNOWLEDGMENT FOR INDIVIDUAL:

The State of _____}.
_____ County}

I (name and style of officer) hereby certify that _____ whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand this _____ day of _____, A. D. 19_____.
A. B. Judge, etc. (or as the case may be)

ACKNOWLEDGMENT FOR CORPORATION:

The State of _____}.
_____ County}

I, _____, a _____ in and for said County in said State, hereby certify that _____ whose name as _____ of the _____, a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.
Given under my hand this the _____ day of _____, 19_____.

(Style of Officer)

ACKNOWLEDGMENT FOR AN OFFICIAL OR OTHER PERSON IN REPRESENTATIVE CAPACITY:

The State of _____}.
_____ County}

I, _____, a _____, in and for said County in said State, hereby certify that _____, whose name as _____ (here state representative capacity) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, in his capacity as such _____, executed the same voluntarily on the day the same bears date.
Given under my hand this the _____ day of _____, 19_____.

(Style of Officer)

ACKNOWLEDGMENT FOR CORPORATION, IN REPRESENTATIVE CAPACITY

The State of _____}.
_____ County}

I, _____, a _____ in and for said County, in said State, hereby certify that _____ whose name as _____ of _____, a corporation as _____ of the estate of _____ (or as the case may be) is signed to the foregoing _____, and who is known to me, acknowledged before me on this day, that being informed of the contents of said _____, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as _____ as aforesaid.
Given under my hand this the _____ day of _____, 19_____.

(Style of Officer)

35-4-30. Form of probate of conveyance.

The form of a probate of a conveyance or other instrument is as follows:

The State of _____}.
_____ County}

I, (name and style of the officer), hereby certify that _____, a subscribing witness to the foregoing conveyance, known to me, appeared before me on this day, and being sworn, stated that _____, the grantor, voluntarily executed the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor, and of the other witness, and that such other witness subscribed his name as a witness in his presence.

Given under my hand, this _____ day of _____, A. D. _____.

A. B., Judge, etc. (or as the case may be).