

Chapter 42.44 RCW
Notaries public

RCW Sections

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42.44.010
Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Director" means the director of licensing of the state of Washington or the director's designee.

(2) "Notarial act" 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; (e) certifying or attesting a copy; (f) receiving a protest of a negotiable instrument; (g) certifying that an event has occurred or an act has been performed; and (h) any other act that a notary public of this state is authorized to perform.

(3) "Notary public" and "notary" mean any person appointed to perform notarial acts in this state.

(4) "Acknowledgment" means a statement by a person that the person has executed an instrument as the person's free and voluntary act for the uses and purposes stated therein and, if the instrument is executed in a representative capacity, a statement that the person signed the document with proper authority and executed it as the act of the person or entity represented and identified therein.

(5) "Verification upon oath or affirmation" means a statement by a person who asserts it to be true and makes the assertion upon oath or affirmation administered in accordance with chapter 5.28 RCW.

(6) "In a representative capacity" means:

(a) For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;

(b) As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;

(c) As an attorney-in-fact for a principal; or

(d) In any other capacity as an authorized representative of another.

(7) "Serious crime" means any felony or any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy, or the solicitation of another to commit a serious crime.

[1985 c 156 § 1.]

42.44.020

Qualifications — Application — Bond.

(1) The director may, upon application, appoint to be a notary public in this state, any person who:

(a) Is at least eighteen years of age;

(b) Resides in Washington state, or resides in an adjoining state and is regularly employed in Washington state or carries on business in Washington state; and

(c) Can read and write English.

(2) Each application shall be accompanied by endorsements by at least three residents of this state of the age of eighteen or more, who are not relatives of the applicant, in the following form:

I, (name of endorser), being a person eligible to vote in the state of Washington, believe the applicant for a notary public appointment, (applicant's name), who is not related to me, to be a person of integrity and good moral character and capable of performing notarial acts.

.....

(Endorser's signature and address, with date of signing)

(3) Every application for appointment as a notary public shall be accompanied by a fee established by the director by rule.

(4) Every applicant for appointment as a notary public shall submit an application in a form prescribed by the director, and shall sign the following declaration in the presence of a notary public of this state:

Declaration of Applicant

I, (name of applicant), solemnly swear or affirm under penalty of perjury that the personal information I have provided in this application is true, complete, and correct; that I carefully have read the materials provided with the application describing the duties of a notary public in and for the state of Washington; and, that I will perform, to the best of my ability, all notarial acts in accordance with the law.

.....

(Signature of applicant)

State of Washington

County of

On this day appeared before me, signed this Declaration of Application, and swore (or affirmed) that (he/she) understood its contents and that its contents are truthful.

Dated:

.....
Signature of notary public

(Seal or stamp)

Residing at

(5) Every applicant shall submit to the director proof from a surety company that a ten thousand dollar surety bond, insuring the proper performance of notarial acts by the applicant, will be effective for a term commencing on the date the person is appointed, and expiring on the date the applicant's notary appointment expires. The surety for the bond shall be a company qualified to write surety bonds in this state.

[1985 c 156 § 2.]

42.44.030
Appointment — Denial for unprofessional conduct — Certificate of appointment.

In addition to the unprofessional conduct specified in RCW 18.235.130, the director may deny appointment as a notary public to any person based on the following conduct, acts, or conditions:

- (1) Has had disciplinary action taken against any professional license in this or any other state; or
- (2) Has engaged in official misconduct as defined in RCW 42.44.160(1), whether or not criminal penalties resulted.

The director shall deliver a certificate evidencing the appointment to each person appointed as a notary public. The certificate may be signed in facsimile by the governor, the secretary of state, and the director or the director's designee. The certificate must bear a printed seal of the state of Washington.

[2002 c 86 § 287; 1985 c 156 § 3.]

Notes:

- Effective dates -- 2002 c 86:** See note following RCW 18.08.340.
- Part headings not law -- Severability -- 2002 c 86:** See RCW 18.235.902 and 18.235.903.

42.44.050
Seal or stamp.

Every person appointed as a notary public in this state shall procure a seal or stamp, on which shall be engraved or impressed the words "Notary Public" and "State of Washington," the date the appointment expires, the person's surname, and at least the initials of the person's first and middle names. The director shall prescribe by rule the size and form or forms of the seal or stamp. It is unlawful for any person intentionally to manufacture, give, sell, procure or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has delivered a certificate evidencing the appointment as provided for in *RCW 42.44.040.

[1985 c 156 § 5.]

Notes:

- *Reviser's note:** RCW 42.44.040 was repealed by 2003 c 199 § 1.

42.44.060
Term.

A person appointed as a notary public by the director may perform notarial acts in this state for a term of four years, unless:

- (1) Disciplinary action has been taken against the notarial appointment, including a shorter term, suspension, or revocation; or

(2) The notarial appointment has been resigned.

[2002 c 86 § 288; 1985 c 156 § 6.]

Notes:

Effective dates -- 2002 c 86: See note following RCW 18.08.340.

Part headings not law -- Severability -- 2002 c 86: See RCW 18.235.902 and 18.235.903.

42.44.070

Reappointment without endorsements.

A person who has received an appointment as a notary public may be reappointed without the endorsements required in RCW 42.44.020(2) if the person submits a new application before the expiration date of the current appointment.

[1985 c 156 § 7.]

42.44.080

Standards for notarial acts.

A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

(1) In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgement is the person whose true signature is on the document.

(2) In taking an acknowledgment authorized by RCW 64.08.100 from a person physically unable to sign his or her name or make a mark, a notary public shall, in addition to other requirements for taking an acknowledgment, determine and certify from personal knowledge or satisfactory evidence that the person appearing before the notary public is physically unable to sign his or her name or make a mark and is otherwise competent. The notary public shall include in the acknowledgment a statement that the signature in the acknowledgment was obtained under the authority of RCW 64.08.100.

(3) In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.

(4) In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary public and named in the document.

(5) In certifying or attesting a copy of a document or other item, a notary public must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

(6) In making or noting a protest of a negotiable instrument, a notary public must determine the matters set forth in *RCW 62A.3-509.

(7) In certifying that an event has occurred or an act has been performed, a notary public must determine the occurrence or performance either from personal knowledge or from satisfactory evidence based upon the oath or affirmation of a credible witness personally known to the notary public.

(8) A notary public has satisfactory evidence that a person is the person described in a document if that person: (a) Is personally known to the notary public; (b) is identified upon the oath or affirmation of a credible witness personally known to the notary public; or (c) is identified on the basis of identification documents.

(9) The signature and seal or stamp of a notary public are prima facie evidence that the signature of the notary is genuine and that the person is a notary public.

(10) A notary public is disqualified from performing a notarial act when the notary is a signer of the document which is to be notarized.

[1987 c 76 § 3; 1985 c 156 § 8.]

Notes:

*Reviser's note: RCW 62A.3-509 was repealed by 1993 c 229 § 76, effective July 1, 1994.

42.44.090

Form of certificate — General — Seal or stamp as exclusive property.

(1) A notarial act by a notary public must be evidenced by a certificate signed and dated by a notary public. The certificate must include the name of the jurisdiction in which the notarial act is performed and the title of the notary public or other notarial officer and shall be accompanied by an impression of the official seal or stamp. It shall not be necessary for a notary public in certifying an oath to be used in any of the courts in this state, to append an impression of the official seal or stamp. If the notarial officer is a notary public, the certificate shall also indicate the date of expiration of such notary public's appointment, but omission of that information may subsequently be corrected.

(2) A certificate of a notarial act is sufficient if it meets the requirements of subsection (1) of this section and it:

(a) Is in the short form set forth in RCW 42.44.100;

(b) Is in a form otherwise permitted or prescribed by the laws of this state;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Is in a form that sets forth the actions of the notary public and the described actions are sufficient to meet the requirements of the designated notarial act.

If any law of this state specifically requires a certificate in a form other than that set forth in RCW 42.44.100 in connection with a form of document or transaction, the certificate required by such law shall be used for such document or transaction.

(3) By executing a certificate of a notarial act, the notary public certifies that he or she has made the determinations required by RCW 42.44.080.

(4) A notary public's seal or stamp shall be the exclusive property of the notary public, shall not be used by any other person, and shall not be surrendered to an employer upon termination of employment, regardless of whether the employer paid for the seal or for the notary's bond or appointment fees.

[1985 c 156 § 9.]

42.44.100

Short forms of certificate.

The following short forms of notarial certificates are sufficient for the purposes indicated, if completed with the information required by this section:

(1) For an acknowledgment in an individual capacity:

State of Washington

County of

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated:

.....
(Signature)

(Seal or stamp)

.....
Title

My appointment
expires

(2) For an acknowledgment in a representative capacity:

State of Washington

County of

I certify that I know or have satisfactory evidence that (name of person) is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment
expires

(3) For a verification upon oath or affirmation:

State of Washington

County of

Signed and sworn to (or affirmed) before me on (date) by (name of person making statement).

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment
expires

(4) For witnessing or attesting a signature:

State of Washington

County of

Signed or attested before me on by

.....
(Signature)

(Seal or stamp)

.....
Title
My appointment

expires

(5) For attestation of a copy of a document:

State of Washington

County of

I certify that this is a true and correct copy of a document in the possession of as of this date.

Dated:

(Seal or stamp)

.
(Signature)

.
Title
My appointment
expires

(6) For certifying the occurrence of an event or the performance of an act:

State of Washington

County of

I certify that the event or act described in this document has occurred or been performed.

Dated:

(Seal or stamp)

.
(Signature)

.
Title
My appointment
expires

[1988 c 69 § 4; 1985 c 156 § 10.]

**42.44.110
Illegible writing.**

The illegibility of any wording, writing, or marking required under this chapter does not in and of itself affect the validity of a document or transaction.

[1985 c 156 § 11.]

**42.44.120
Fees.**

(1) The director shall establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

[1985 c 156 § 12.]

42.44.130

Notarial acts by officials of other jurisdictions.

(1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

- (a) A notary public of that jurisdiction;
- (b) A judge, clerk, or deputy clerk of a court of that jurisdiction; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

Notarial acts performed in other jurisdictions of the United States under federal authority as provided in RCW 42.44.140 have the same effect as if performed by a notarial officer of this state.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title of an officer listed in subsection (1)(a) and (b) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

[1985 c 156 § 13.]

42.44.140

Notarial acts by federal authorities.

(1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed by any of the following persons under authority granted by the law of the United States:

- (a) A judge, clerk, or deputy clerk of a court;
- (b) A commissioned officer in active service with the military forces of the United States;
- (c) An officer of the foreign service or consular agent of the United States; or
- (d) Any other person authorized by federal law to perform notarial acts.

(2) The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

(3) The signature and title or rank of an officer listed in subsection (1)(a), (b), and (c) of this section conclusively establish the authority of a holder of that title to perform a notarial act.

[1985 c 156 § 14.]

42.44.150

Notarial acts by foreign authorities.

(1) A notarial act has the same effect under the law of this state as if performed by a notary public of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

- (a) A notary public or notary;
- (b) A judge, clerk, or deputy clerk of a court of record; or
- (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(2) An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the designated office.

(3) A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, is prima facie evidence of the authenticity or validity of the notarial act set forth in the certificate.

(4) A stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds that designated title.

(5) A stamp or seal of an officer listed in subsection (1)(a) or (b) of this section is prima facie evidence that a person with that title has authority to perform notarial acts.

(6) If the title of officer and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

[1985 c 156 § 15.]

42.44.160

Official misconduct — Penalty.

(1) A notary public commits official misconduct when he or she signs a certificate evidencing a notarial act, knowing that the contents of the certificate are false. Official misconduct also constitutes unprofessional conduct for which disciplinary action may be taken.

(2) A notary public who commits an act of official misconduct shall be guilty of a gross misdemeanor.

(3) Any person not appointed as a notary public who acts as or otherwise impersonates a notary public shall be guilty of a gross misdemeanor.

[2002 c 86 § 289; 1985 c 156 § 16.]

Notes:

Effective dates -- 2002 c 86: See note following RCW 18.08.340.

Part headings not law -- Severability -- 2002 c 86: See RCW 18.235.902 and 18.235.903.

42.44.170

Revocation of appointment — Resignation.

(1) The director shall revoke the appointment of a notary public upon a judicial finding of incompetency of the notary public. If a notary public is found to be incompetent, his or her guardian or conservator shall within thirty days of such finding mail or deliver to the director a letter of resignation on behalf of the notary public.

(2) A notary public may voluntarily resign by mailing or delivering to the director a letter of resignation.

[2002 c 86 § 290; 1985 c 156 § 17.]

Notes:

Effective dates -- 2002 c 86: See note following RCW 18.08.340.

Part headings not law -- Severability -- 2002 c 86: See RCW 18.235.902 and 18.235.903.

42.44.180

Evidence of authenticity of notarial seal and signature.

(1) The authenticity of the notarial seal and official signature of a notary public of this state may be evidenced by:

(a) A certificate of authority from the director or the secretary of state; or

(b) An apostille in the form prescribed by the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents of October 5, 1961.

(2) An apostille as specified by the Hague Convention shall be attached to any document requiring authentication that is sent to a nation that has signed and ratified the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents.

[1985 c 156 § 18.]

42.44.190

Rules.

The director may adopt rules consistent with this chapter. Such rules shall include but shall not be limited to rules concerning applications for appointment, application and renewal fees, fees chargeable for notarial services, the replacement of lost or stolen seals or stamps, changes of names or addresses of notaries, resignations of notaries, and issuance of evidences of authenticity of notarial seals and signatures.

[2002 c 86 § 291; 1985 c 156 § 20.]

Notes:

Effective dates -- 2002 c 86: See note following RCW 18.08.340.

Part headings not law -- Severability -- 2002 c 86: See RCW 18.235.902 and 18.235.903.

42.44.200

Transfer of records.

Records relating to the appointment and commissioning of notaries public that are in the custody of county clerks of this state on *the effective date of this act shall be transferred to the director of licensing on or before December 31, 1985. Such records may be archived by the director.

[1985 c 156 § 22.]

Notes:

***Reviser's note:** As used in this section, the phrase "the effective date of this act," is ambiguous; see RCW 42.44.903.

42.44.210

Uniform regulation of business and professions act.

The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

[2002 c 86 § 292.]

Notes:

Effective dates -- 2002 c 86: See note following RCW 18.08.340.

Part headings not law -- Severability -- 2002 c 86: See RCW 18.235.902 and 18.235.903.

42.44.900

Savings — 1985 c 156.

Nothing in this act may be interpreted to revoke any notary public appointment or commission existing on January 1, 1986. This act does not terminate, or in any way modify, any liability, civil or criminal, which exists on January 1, 1986. A notarial act performed before January 1, 1986, is not affected by this act.

[1985 c 156 § 21.]

42.44.901
Construction.

RCW 42.44.010, 42.44.080, 42.44.090, 42.44.100, 42.44.130, 42.44.140, and 42.44.150 shall be applied and construed to effectuate their general purpose to make the law uniform with respect to the subject of this chapter among states enacting such sections of this chapter.

[1985 c 156 § 23.]

42.44.902
Severability — 1985 c 156.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1985 c 156 § 24.]

42.44.903
Effective date — 1985 c 156.

Sections 1 through 19, 21, and 23 through 26 shall take effect on January 1, 1986.

[1985 c 156 § 27.]