

1983 Assembly Bill 629

Date of enactment: **May 10, 1984**
Date of publication: **May 18, 1984**

1983 Wisconsin Act 492

AN ACT *to repeal* 706.065; and *to repeal and recreate* 706.07 of the statutes, *relating to* notarial acts.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 706.065 of the statutes is repealed.

SECTION 2. 706.07 of the statutes is repealed and recreated to read:

706.07 Uniform law on notarial acts. (1) DEFINITIONS. In this section:

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

(b) "In a representative capacity" means:

1. For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;
2. As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;
3. As an attorney in fact for a principal; or
4. In any other capacity as an authorized representative of another.

(c) "Notarial act" means any act that a notary public of this state is authorized to perform, and includes taking an acknowledgment, 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.

(d) "Notarial officer" means a notary public or other officer authorized to perform notarial acts.

(e) "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

(2) NOTARIAL ACTS. (a) In taking an acknowledgment, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the officer and making the acknowledgment is the person whose true signature is on the instrument.

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

(c) In witnessing or attesting a signature, the notarial officer must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the officer and named therein.

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

(e) In making or noting a protest of a negotiable instrument, the notarial officer must determine the matters set forth in s. 403.509.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person:

1. Is personally known to the notarial officer;
2. Is identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or
3. Is identified on the basis of identification documents.

(3) NOTARIAL ACTS IN THIS STATE. (a) A notarial act may be performed within this state by the following persons of this state:

1. A notary public;
2. A judge, clerk or deputy clerk of a court of record;
3. A court commissioner;
4. A register of deeds;

5. A municipal judge; or
6. A county clerk or deputy county clerk.

(b) Notarial acts performed within this state under federal authority as provided in sub. (5) have the same effect as if performed by a notarial officer of this state.

(c) 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.

(4) NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES. (a) A notarial act 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:

1. A notary public of that jurisdiction;
2. A judge, clerk, or deputy clerk of a court of that jurisdiction; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) Notarial acts performed in other jurisdictions of the United States under federal authority as provided in sub. (5) have the same effect as if performed by a notarial officer of this state.

(c) 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.

(d) The signature and indicated title of an officer listed in par. (a) 1 or 2 conclusively establish the authority of a holder of that title to perform a notarial act.

(5) NOTARIAL ACTS UNDER FEDERAL AUTHORITY. (a) A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:

1. A judge, clerk, or deputy clerk of a court;
2. A commissioned officer on active duty in the military service of the United States;
3. An officer of the foreign service or consular officer of the United States; or
4. Any other person authorized by federal law to perform notarial acts.

(b) 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.

(c) The signature and indicated title of an officer listed in par. (a) 1, 2 or 3 conclusively establish the authority of a holder of that title to perform a notarial act.

(6) FOREIGN NOTARIAL ACTS. (a) A notarial act 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 authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

1. A notary public or notary;
2. A judge, clerk, or deputy clerk of a court of record; or
3. Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) 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 indicated office.

(c) 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,

conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(d) An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

(e) An official stamp or seal of an officer listed in par. (a) 1 or 2 is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

(f) If the title of office 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.

(7) CERTIFICATE OF NOTARIAL ACTS. (a) A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must 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 office. If the officer is a notary public, the certificate must 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 must also include the officer's rank.

(b) A certificate of a notarial act is sufficient if it meets the requirements of par. (a) and it:

1. Is in the short form set forth in sub. (8);
2. Is in a form otherwise prescribed by the law of this state;
3. Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or
4. Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determination required by sub. (2).

(8) SHORT FORMS. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by sub. (7) (a):

(a) For an acknowledgment in an individual capacity:

State of
County of

This instrument was acknowledged before me on (date) by (name(s) of person(s)).

.....
(Signature of notarial officer)

(Seal, if any)

.....
Title (and Rank)
[My commission expires:]

(b) For an acknowledgment in a representative capacity:

State of
County of

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

.....
(Signature of notarial officer)

(Seal, if any)

....
Title (and Rank)
[My commission expires:]

(c) For a verification upon oath or affirmation:

State of
County of

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

....
(Signature of notarial officer)

(Seal, if any)

....
Title (and Rank)
[My commission expires:]

(d) For witnessing or attesting a signature:

State of
County of

Signed or attested before me on (date) by (name(s) of person(s)).

....
(Signature of notarial officer)

(Seal, if any)

....
Title (and Rank)
[My commission expires:]

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

State of
County of

I certify that this is a true and correct copy of a document in the possession of
Dated:

....
(Signature of notarial officer)

(Seal, if any)

....
Title (and Rank)
[My commission expires:]

(9) NOTARIAL ACTS AFFECTED BY THIS SECTION. This section applies to notarial acts performed on or after the effective date of this section (1983).

(10) UNIFORMITY OF APPLICATION AND CONSTRUCTION. This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among states enacting it.

(11) SHORT TITLE. This section may be cited as the uniform law on notarial acts.

SECTION 3. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
706.05 (2)(b) and (8)	706.06, 706.065 or 706.07	706.06 or 706.07
706.06 (1)	706.065 or 706.07	706.07
887.01 (3)	706.07 (11)	706.07 (5)

- 2057 -

83 WisACT 492

SECTION 4. Effective date. This act takes effect on the first day of the 6th month commencing after its publication.
