

## CHAPTER 137

## NOTARIES AND COMMISSIONERS OF DEEDS

137.01 Notaries

137.02 Commissioners of deeds

**137.01 Notaries. (1) NOTARIES PUBLIC WHO ARE NOT ATTORNEYS.** (a) The governor shall appoint notaries public who shall be Wisconsin residents and at least 18 years of age. Applicants who are not attorneys shall file an application with the secretary of state and pay a \$15 fee.

(b) The secretary of state shall satisfy himself or herself that the applicant has the equivalent of an 8th grade education, is familiar with the duties and responsibilities of a notary public and, subject to ss. 111.321, 111.322 and 111.335, does not have an arrest or conviction record.

(c) If an application is rejected the fee shall be returned.

(d) Qualified applicants shall be notified by the secretary of state to take and file the official oath and execute and file an official bond in the sum of \$500, with surety to be approved by the clerk of the circuit court for his or her county, or, if executed by a surety company, approved by the secretary of state.

(e) The qualified applicant shall file his signature, post-office address and an impression of his official seal, or imprint of his official rubber stamp with the secretary of state.

(f) A certificate of appointment as a notary public for a term of 4 years stating the expiration date of the commission shall be issued to applicants who have fulfilled the requirements of this subsection.

(g) At least 30 days before the expiration of a commission the secretary of state shall mail notice of the expiration date to the holder of a commission.

(h) A notary shall be entitled to reappointment.

**(2) NOTARIES PUBLIC WHO ARE ATTORNEYS.** (a) Any Wisconsin resident who is licensed to practice law in this state is entitled to a permanent commission as a notary public upon application to the secretary of state and payment of a \$15 fee. The application shall include a certificate of good standing from the supreme court, the signature and post-office address of the applicant and an impression of the applicant's official seal, or imprint of the applicant's official rubber stamp.

(b) The secretary of state shall issue a certificate of appointment as a notary public to persons who qualify under the requirements of this subsection. Such certificate shall state that the notary commission is permanent.

(c) The supreme court shall file with the secretary of state notice of the surrender, suspension or revocation of the license to practice law of any attorney who holds a permanent commission as a notary public. Such notice shall be deemed a revocation of said commission.

**(3) NOTARIAL SEAL OR STAMP.** (a) Every notary public shall provide an engraved official seal which makes a distinct and legible impression or official rubber stamp which makes a distinct and legible imprint on paper. The impression of the seal or the imprint of the rubber stamp shall state, "Notary Public," "State of Wisconsin" and the name of the notary. But any notarial seal in use on August 1, 1959, shall be considered in compliance.

(b) The impression of the notarial seal upon any instrument or writing or upon wafer, wax or other adhesive substance and affixed to any instrument or writing shall be deemed an affixation of the seal, and the imprint of the

notarial rubber stamp upon any instrument or writing shall be deemed an affixation of the rubber stamp.

**(4) ATTESTATION.** (a) Every official act of a notary public shall be attested by his written signature.

(b) All certificates of acknowledgments of deeds and other conveyances, or any written instrument required or authorized by law to be acknowledged or sworn to before any notary public, within this state, shall be attested by a clear impression of the official seal or imprint of the rubber stamp of said officer, and in addition thereto shall be written or stamped either the day, month and year when the commission of said notary public will expire, or that such commission is permanent.

(c) The official certificate of any notary public, when attested and completed in the manner provided by this subsection, shall be presumptive evidence in all cases, and in all courts of the state, of the facts therein stated, in cases where by law a notary public is authorized to certify such facts.

**(5) POWERS.** Notaries public have power to act throughout the state. Notaries public have power to demand acceptance of foreign and inland bills of exchange and payment thereof, and payment of promissory notes, and may protest the same for nonacceptance or nonpayment, may administer oaths, take depositions and acknowledgments of deeds, and perform such other duties as by the law of nations, or according to commercial usage, may be exercised and performed by notaries public.

**(6) AUTHENTICATION.** (a) The secretary of state may certify to the official qualifications of any notary public and to the genuineness of his signature and seal or rubber stamp.

(b) Whenever any notary public has filed in the office of the clerk of the circuit court of his county of residence his signature, an impression of his official seal or imprint of his official rubber stamp and a certificate of the secretary of state, such clerk may certify to the official qualifications of such notary public and the genuineness of his signature and seal or rubber stamp.

(c) Any certificate specified under this subsection shall be presumptive evidence of the facts therein stated.

**(6m) CHANGE OF RESIDENCE.** A notary public shall not vacate his office by reason of his change of residence within the state. Written notice of any change of address shall be given to the secretary of state within 5 days of such change.

**(7) OFFICIAL RECORDS TO BE FILED.** When any notary public ceases to hold office he, or in case of his death his executor or administrator, shall deposit his official records and papers in the office of the clerk of the circuit court of the county of his residence. If any such notary or any executor or administrator, after such records and papers come to his hands, neglects for 3 months to deposit them he shall forfeit not less than \$50 nor more than \$500. If any person knowingly destroys, defaces or conceals any records or papers of any notary public he shall forfeit not less than \$50 nor more than \$500, and shall be liable to the party injured for all damages thereby sustained. The clerks of the circuit courts shall receive and safely keep all such papers and records in their office.

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**(8) MISCONDUCT.** If any notary public shall be guilty of any misconduct or neglect of duty in office he shall be liable to the party injured for all the damages thereby sustained.

**(9) FEES.** A notary public shall be allowed the following fees:

(a) For drawing and copy of protest of the nonpayment of a promissory note or bill of exchange, or of the nonacceptance of such bill, \$1 in the cases where by law such protest is necessary, but in no other case.

(b) For drawing and copy of every other protest, 50 cents.

(c) For drawing, copying and serving every notice of nonpayment of a note or bill, or nonacceptance of a bill, 50 cents.

(d) For drawing any affidavit, or other paper or proceeding for which provision is not herein made, 50 cents for each folio, and for copying the same 12 cents per folio.

(e) For taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services, but the fee per document shall not exceed 50 cents.

**History:** 1971 c. 213 s. 5; 1977 c. 29, 449; 1979 c. 221; 1981 c. 380; 1981 c. 391 s. 211.

Residency requirement under (1) and (2) is not unconstitutional. 74 Atty. Gen. 221.

**137.02 Commissioners of deeds.** (1) The governor shall have power to appoint one or more commissioners in any of

the United States, or of the territories belonging to the United States and in foreign countries, who shall hold his office for the term of four years unless sooner removed. Every such commissioner shall take the official oath before a judge or clerk of one of the courts of record of the state or territory or country in which he shall reside, and file the same, with an impression of his seal of office and a statement of his post-office address, in the office of the secretary of state, and shall at the same time pay into the treasury the sum of five dollars; and thereupon his commission shall issue.

(2) Such commissioner shall have authority to take the acknowledgment and proof of the execution of deeds, conveyances and leases of any lands lying in this state, or written instruments relating thereto, or of any contract or any other writing, sealed or unsealed, to be used or recorded in this state; to administer oaths required to be used in this state; to take and certify depositions to be used in the courts of this state, either under a commission, by consent of parties or on notice to the opposite party; and all such acts done pursuant to the laws of this state and certified under his hand and seal of office shall be as valid as if done by a proper officer of this state.