

CHAPTER 137.

NOTARIES AND COMMISSIONERS OF DEEDS.

137.01 Notaries.
137.02 Commissioners of deeds.

137.01 Notaries. (1) The governor shall appoint, in each organized county of the state, one or more notaries public, who shall be residents and qualified electors, of the county for which they are appointed. Every person desiring appointment as notary public shall file an application therefor with the secretary of state on a form to be prepared by the latter, accompanied by a fee of two dollars. Before issuing to any applicant a commission under subsection (2) the secretary of state shall satisfy himself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public. When so satisfied, he shall notify the applicant who shall then comply with the provisions of subsection (2). If the application is rejected the fee shall be returned. Any person who now holds a commission as notary public shall be entitled to be reappointed as notary public if of good moral character. They shall be considered state officers, and shall hold their offices for the term of four years from the date of their appointment, and have power to act by virtue of their office throughout the state.

(2) (a) Every notary public shall 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 county judge or clerk of the circuit court of his county, or, when executed by a surety company, approved by the secretary of state.

(b) If the notary desires to have the expiration date of his commission appear upon each impression of his seal he may proceed as follows: Deposit the oath and bond with a statement of his post-office address in the office of the secretary of state. His commission shall issue and the secretary of state shall deliver to such notary a certificate of his appointment, stating the date his commission will expire, which, together with his autograph and an impression of his seal containing a statement of the date when his commission expires, in which statement the word "commission" may be abbreviated "comm.", shall be filed in the office of the clerk of court of the county wherein the notary resides. Such impression, together with the notary's autograph, shall likewise be filed in the office of the secretary of state. The impression of such notary's seal bearing the statement hereinbefore mentioned upon any instrument or writing or upon wafer, wax or other adhesive substance affixed to any instrument or writing shall be deemed an affixation of the seal and a writing or stamping or adding of the statement of the statement of the date when his commission expires and of his county. Such impression, together with the notary's signature alone, shall be for all purposes as effective as if the matters therein contained were separately set out elsewhere in any instrument or writing, by any means or medium whatsoever, including the designation of his office.

(c) If the notary does not desire to have the expiration date of his commission appear upon each impression of his seal he may proceed as follows: Provide an engraved official seal, which shall make a distinct and legible impression on paper, giving his name, office and county, and shall deposit an impression of the same, together with his said oath and bond and a statement of his post-office address, in the office of the secretary of state; and thereupon his commission shall issue, and the secretary of state shall deliver to such notary a certificate of his appointment, stating the date when his commission will expire, which, together with his autograph and an impression of his official seal, shall be filed in the office of the clerk of the circuit court of the county where he resides.

(d) Not less than 30 nor more than 60 days before the expiration of his commission the secretary of state shall notify by mail every notary public of the time when his commission will expire.

(e) Notaries public whose commissions have not expired at the effective date of this amendment (1945), and those who may later desire so to do, may add to their seals such devices as will enable them to impress the date of the expiration of their commissions therewith. Such impressions shall for all purposes be as valid and effectual as if paragraph (b) had been complied with in full.

(3) Notaries public shall 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.

(4) All certificates of acknowledgments of deeds and other conveyances, or any written instrument required or authorized by law to be acknowledged before any notary public, within the state of Wisconsin, shall be attested by a clear impression of the official seal of said officer, and in addition thereto shall be written or stamped the day, month and year, when the commission of said notary public will expire.

(5) The official certificate of any notary public, when attested and completed in the manner provided by subsection (4) of this section, shall be presumptive evidence in all cases, and in all courts of the state of Wisconsin, of the facts therein stated, in cases where by law a notary public is authorized to certify such facts.

(6) Whenever any notary public shall have filed in the office of the clerk of the circuit court of his county a certificate of the secretary of state, together with his autograph and an impression of his official seal, as required by subsection (2) of this section, such clerk may certify to the official qualifications of such notary public and the genuineness of his signature and seal. All such clerk's certificates, made previous to the first day of April, A. D. 1877, shall be presumptive evidence of the facts therein stated.

(7) When any notary public shall cease to hold office as such, 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 when appointed; and if any such notary or any executor or administrator, after such records and papers shall come to his hands, shall neglect for three months so to do he shall forfeit not less than fifty nor more than five hundred dollars; and if any person shall knowingly destroy, deface or conceal any records or papers of any notary public he shall forfeit not less than fifty nor more than five hundred dollars, and shall be liable to the party injured for all damages thereby sustained. The several clerks of the circuit courts shall receive and safely keep all such papers and records in their office.

(8) 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) 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, fifty cents in the cases where by law such protest is necessary, but in no other case.

(b) For drawing and copy of every other protest, twenty-five cents.

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

(d) For drawing any affidavit, or other paper or proceeding for which provision is not herein made, twenty-five cents for each folio, and for copying the same six 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. [1945 c. 426]

Note: Damages cannot be recovered from negligence. Governor ex rel. Kadin v. Bris-a notary public for his negligence unless the damages were proximately caused by such negligence. See note to 69.22, citing 32 Atty. Gen. 415.

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.

137.03 [Repealed by 1933 c. 436 s. 3]