

## KANSAS STATUTES ANNOTATED

### CHAPTER 53. – NOTARIES PUBLIC AND COMMISSIONERS ARTICLE 1. -- NOTARIES PUBLIC

#### **53-101. Appointment; term; qualifications; not state officer.**

The secretary of state shall appoint notaries public, who may perform notarial acts in any part of this state for a term of not more than four years, unless sooner removed. Any person who is a citizen of the United States, who is at least 18 years of age and who is a resident of this state, or who is a resident of a state bordering on this state and who regularly carries on a business or profession in this state or is regularly employed in this state, shall be eligible to be appointed as a notary public as provided in this act. Notaries public shall not be considered as state officers.

**History:** G.S. 1868, ch. 71, § 1; L. 1903, ch. 373, § 1; R.S. 1923, 53-101; L. 1951, ch. 326, § 1; L. 1963, ch. 294, § 1; L. 1967, ch. 297, § 1; L. 1975, ch. 285, § 1; L. 1976, ch. 237, § 1; L. 1980, ch. 159, § 1; L. 1987, ch. 205, § 3; July 1.

#### **53-102. Application; oath; bond; filings required.**

Every person, before entering upon the duties of a notary public, shall file with the secretary of state an application for appointment as a notary public, which shall also include an oath of office and a good and sufficient bond to the state of Kansas in the sum of \$7,500, with one or more sureties to be approved by the secretary of state. The bond shall be conditioned upon the faithful performance of all notarial acts in accordance with law. Every person, before receiving appointment as a notary public, shall also file with the secretary of state the official signature and an impression of the seal to be used by the notary public.

**History:** G.S. 1868, ch. 71, § 2; R.S. 1923, 53-102; L. 1967, ch. 297, § 2; L. 1975, ch. 285, § 2; L. 1980, ch. 159, § 2; L. 1984, ch. 201, § 13; July 1.

#### **53-103. Forms for applications, bonds and oath.**

Forms for applications, bonds and oath of office shall be furnished by the secretary of state.

**History:** G.S. 1868, ch. 71, § 3; R.S. 1923, 53-103; L. 1975, ch. 285, § 3; July 1.

#### **53-104. Filing and indexing application, bond, oath and record of appointment; fee.**

Such application, bond, oath and record of appointment shall be filed in the office of the secretary of state and properly indexed in that office. The secretary of state shall receive a fee of \$10 for such services. The secretary of state shall remit all moneys received under this section to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the state general fund.

**History:** G.S. 1868, ch. 71, § 4; R.S. 1923, 53-104; L. 1955, ch. 264, § 1; L. 1963, ch. 294, § 2; L. 1975, ch. 285, § 4; L. 1981, ch. 217, § 1; L. 2001, ch. 5, § 189; July 1.

#### **53-105. Seal; statement of date of expiration of appointment.**

Every notary public shall provide a notarial seal containing such notary's name exactly as it appears on the application for appointment as a notary public, and the words "notary public" and "state of Kansas" or words of like import indicating statewide notarial authority, approved by the secretary of state. Such seal shall authenticate all official acts, attestations and instruments therewith. Every notary public shall add to such notary's official signature the date of expiration of appointment as a notary public. The seal of every notary public shall be either a seal press and the impression thereof inked or blackened or a rubber stamp to be used with permanent ink so that any such seal may be legibly reproduced by photographic process. No notary public shall use either such seal unless an impression thereof has been filed in the office of secretary of state.

**History:** G.S. 1868, ch. 71, § 5; L. 1881, ch. 116, § 1; R.S. 1923, 53-105; L. 1967, ch. 298, § 1; L. 1970, ch. 213, §

1; L. 1975, ch. 285, § 5; L. 1980, ch. 159, § 3; L. 1987, ch. 205, § 4; July 1.

**53-105a. Certificate of appointment.**

Upon receipt of a completed application with sufficient corporate bond, an oath of appointment, the correct fee, the official signature and an impression of the seal to be used by such notary public, the secretary of state, if satisfied the applicant is qualified to be appointed as a notary public, shall prepare a certificate of appointment for the applicant and forward the appointment to the applicant's residence. Each certificate of appointment shall contain at least the applicant's name and the date upon which the appointment shall expire.

**History:** L. 1980, ch. 159, § 4; July 1.

**53-106. Penalty for failure to attach date of expiration of appointment.**

If any notary public shall willfully neglect or refuse to attach to the notary's official signature the date of expiration of appointment, as provided in K.S.A. 53-105, the notary shall be deemed guilty of a class C misdemeanor.

**History:** L. 1881, ch. 116, § 2; R.S. 1923, 53-106; L. 1975, ch. 285, § 6; L. 1980, ch. 159, § 5; July 1.

**53-107. Powers and duties.**

Notaries public shall have authority to:

- (1) Take acknowledgments;
- (2) administer oaths and affirmations;
- (3) take a verification upon oath or affirmation;
- (4) witness or attest a signature;
- (5) certify or attest a copy;
- (6) note a protest of a negotiable instrument; and
- (7) perform any other act permitted by law.

**History:** G.S. 1868, ch. 71, § 6; L. 1905, ch. 311, § 1; R.S. 1923, 53-107; L. 1963, ch. 294, § 3; L. 1967, ch. 297, § 3; L. 1975, ch. 285, § 7; L. 1980, ch. 159, § 6; L. 1984, ch. 201, § 14; July 1.

**53-108 (Repealed)**

**History:** L. 1905, ch. 311, § 2; R.S. 1923, 53-108; Repealed, L. 1980, ch. 159, § 12; July 1.

**53-109. Prohibited notarial acts; financial or beneficial interest.**

(a) A notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction.

(b) For purposes of this act, a notary public has a direct financial or beneficial interest in a transaction if the notary public:

(1) With respect to a financial transaction, is named, individually, as a principal to the transaction;

(2) with respect to real property, is named, individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor or lessee, to the transaction.

(c) For purposes of this act, a notary public has no direct financial or beneficial interest in a transaction when the notary public acts in the capacity of an agent, employee, insurer, attorney, escrow agent or lender for a person having a direct financial or beneficial interest in the transaction.

**History:** L. 1915, ch. 258, § 1; R.S. 1923, 53-109; L. 1980, ch. 159, § 7; July 1.

**53-110 (Repealed)**

**History:** L. 1871, ch. 110 § 2; R.S. 1923, 53-110; Repealed, L. 1980, ch. 159, § 12; July 1.

**53-111 (Repealed)**

**History:** G.S. 1868, ch. 71, § 7; R.S. 1923, 53-111; Repealed, L. 1976, ch. 237, § 3; July 1.

**53-112 (Repealed)**

**History:** G.S. 1868, ch. 71, § 8; R.S. 1923, 53-112; Repealed, L. 1975, ch. 285, § 9; July 1.

**53-113. Limitation of actions against notary and sureties.**

No suit shall be instituted against any such notary or his or her securities more than three years after the cause of action accrues.

**History:** G.S. 1868, ch. 71, § 9; Oct. 31; R.S. 1923, 53-113.

**53-114. Notary's change of name or seal; notification; new seal required.**

(a) If a notary public changes name by any legal action, such notary shall obtain a new notary seal which meets the requirements established by K.S.A. 53-105, and the seal shall contain the new name of the notary. Prior to performing any acts as a notary public after such change, the notary shall mail or deliver to the secretary of state notice of the change of name which shall include a specimen of the new seal and a specimen of the notary's new official signature.

(b) If a notary public obtains a new seal for any reason, the notary shall mail or deliver to the secretary of state notice of the change of seal which shall include an impression of the new seal.

(c) Such notification, as provided for in subsections (a) and (b), shall be made on forms provided by the secretary of state within thirty (30) days after such change has occurred.

**History:** L. 1975, ch. 285, § 8; L. 1980, ch. 159, § 8; July 1.

**53-115. Cancellation of notary public's bond; notice requirements.**

No surety on a notary public's bond shall cancel such bond without giving written notice thereof to the secretary of state. Fourteen (14) days after receipt of such notice by the secretary of state, said surety shall no longer be liable on such bond.

Whenever the secretary of state receives notice of a surety's intention to cancel a notary's bond, said secretary of state shall notify the affected notary public that unless such notary files another good and sufficient surety bond with the secretary of state on or before the cancellation date of such notary public's surety bond, then such notary will no longer be authorized to perform notarial acts within this state.

**History:** L. 1976, ch. 237, § 2; July 1.

**53-116. Resignation.**

If a notary public no longer desires to be a notary public in this state, the notary shall send immediately by mail or deliver to the secretary of state a letter of resignation informing the secretary of state of the notary's desire to resign as a notary public in the state of Kansas. The appointment of the notary shall thereupon cease to be in effect.

**History:** L. 1980, ch. 159, § 9; July 1.

**53-117. Reappointment.**

No person may be automatically reappointed as a notary public. Every notary public who is an applicant for reappointment as a notary public shall comply with the provisions of K.S.A. 53-102.

**History:** L. 1980, ch. 159, § 10; July 1.

**53-118. Appointment, refusal or revocation; grounds.**

(a) The secretary of state may refuse to appoint any person as a notary public or may revoke the appointment of any notary public upon any of the following grounds:

(1) Substantial or material misstatement or omission in the application submitted to the

secretary of state;

(2) conviction of a felony or of a lesser offense involving moral turpitude or of a nature incompatible with the duties of a notary public. A conviction after a plea of *nolo contendere* is deemed to be a conviction within the meaning of this subsection;

(3) revocation, suspension or denial of a professional license, if such revocation, suspension or denial was for misconduct, dishonesty or any cause substantially relating to the duties or responsibilities of a notary public;

(4) cessation of United States citizenship;

(5) incapacitation to such a degree that the person is incapable of reading or writing the English language;

(6) failure to exercise the powers and duties of a notary public in accordance with this act.

(b) Any person whose notary public appointment has been removed, may not apply for an appointment until the expiration of four years from the date of removal of such appointment.

**History:** L. 1980, ch. 159, § 11; July 1.

### **53-119. Recovery on bond of notary public.**

Any person injured by the failure of a notary public to faithfully perform any notarial act for which a bond is given under the laws of this state may sue on the bond in the person's own name in any court of competent jurisdiction to recover the damages the person may have sustained by such failure.

**History:** L. 1987, ch. 205, § 1; July 1.

**53-120. Same; notice of claim.** If a surety on a notary bond receives a claim on the bond, the surety shall notify the secretary of state of the outcome of that claim.

**History:** L. 1987, ch. 205, § 2; July 1.

### **53-121. Notaries advertising in foreign language; requirements; penalties for violations.**

(a) A notary public who is not admitted to the practice of law in this state and who advertises notarial services in a language other than English shall include, in any advertisement, notice, letterhead or sign, a statement prominently displayed, in the same language in which such notarial services are offered, as follows: "I am not authorized to practice law and have no authority to give advice on immigration law or other legal matters."

(b) A notary public who is not admitted to the practice of law in this state shall not use the term "notario publico" or any equivalent non-English term in any business card, advertisement, notice or sign unless it complies with the requirements of subsection (a).

(c) Violation of this section is a class B misdemeanor.

(d) Violation of this section constitutes a deceptive act or practice pursuant to K.S.A. 50-626, and amendments thereto, and shall be subject to the remedies and penalties provided by the Kansas consumer protection act.

(e) This section shall be part of and supplemental to the acts contained in article 1 of chapter 53 of the Kansas Statutes Annotated, and amendments thereto.

**History:** L. 2006, ch. 14, § 1; July 1.

## **ARTICLE 3. – UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT**

### **53-301 to 53-309 (Repealed)**

**History:** L. 1970, ch. 214, §§ 1 to 9; Repealed, L. 1984, ch. 201, § 17; July 1.

## ARTICLE 4. – FOREIGN PUBLIC DOCUMENTS

### 53-401. Accession to Hague convention; procedure for certification of document.

(a) The state of Kansas hereby declares its intent to accede to the Hague convention abolishing the requirement of legalization for foreign public documents.

(b) Upon presentation of a public document to which the convention applies, the secretary of state, or an assistant or deputy assistant secretary of state appointed pursuant to K.S.A. 75-412, shall affix to the document the certificate required by the convention. The secretary of state shall maintain a record of all documents certified under this section and shall charge \$5 for certification of any such document.

**History:** L. 1981, ch. 318, § 1; July 1.

## ARTICLE 5. – NOTARIAL ACTS

### 53-501. Citation of act.

K.S.A. 53-501 through 53-511 may be cited as the uniform law on notarial acts.

**History:** L. 1984, ch. 201, § 11; July 1.

### 53-502. Definitions.

As used in this act:

(a) “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.

(b) “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.

(c) “Verification upon oath or affirmation” means a declaration that a statement is true made by a person upon oath or affirmation.

(d) “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.

(e) “Notarial officer” means a notary public or other officer authorized to perform notarial acts.

**History:** L. 1984, ch. 201, § 1; July 1.

### 53-503. 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 in the instrument.

(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 K.S.A. 84-3-509 and amendments thereto.

(f) A notarial officer has satisfactory evidence that a person is the person whose true signature is on a document if that person is (1) personally known to the notarial officer, (2) identified upon the oath or affirmation of a credible witness personally known to the notarial officer or (3) identified on the basis of identification documents.

**History:** L. 1984, ch. 201, § 2; July 1.

#### **53-504. Notarial acts in this state; who may perform.**

(a) A notarial act may be performed within this state by the following persons:

- (1) A notary public of this state;
- (2) a judge, clerk or deputy clerk of any court of this state;
- (3) a county clerk or deputy county clerk;
- (4) an election commissioner or assistant election commissioner; or
- (5) any other person authorized to perform the specific act by the law of this state.

(b) Notarial acts performed within this state under federal authority as provided in K.S.A. 53-506, and amendments thereto, shall 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.

**History:** L. 1984, ch. 201, § 3; L. 1998, ch. 81, § 3; July 1.

#### **53-505. 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 K.S.A. 53-506 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 subsection (a)(1) or (a)(2) conclusively establish the authority of a holder of that title to perform a notarial act.

**History:** L. 1984, ch. 201, § 4; July 1.

#### **53-506. 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 subsection (a)(1), (a)(2) or (a)(3) conclusively establish the authority of a holder of that title to perform a notarial act.

**History:** L. 1984, ch. 201, § 5; July 1.

### **53-507. 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 multi-national 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 subsection (a)(1) or (a)(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.

**History:** L. 1984, ch. 201, § 6; July 1.

### **53-508. 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 subsection (a) and it:

(1) Is in the short form set forth in K.S.A. 53-509;

(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 determinations required by K.S.A. 53-503.

**History:** L. 1984, ch. 201, § 7; July 1.

**53-509. Short forms.**

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by subsection (a) of K.S.A. 53-508:

(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 appointment 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 appointment 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 appointment 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 appointment 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 appointment expires: \_\_\_\_\_]

**History:** L. 1984, ch. 201, § 8; L. 1987, ch. 205, § 5; July 1.

**53-510. Notarial acts affected by this act.**

This act applies to notarial acts performed on or after its effective date.

**History:** L. 1984, ch. 201, § 9; July 1.

**53-511. Uniformity of application and construction.**

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

**History:** L. 1984, ch. 201, § 10; July 1.

**ARTICLE 6. – UNSWORN DECLARATIONS**

**53-601. Unsworn declarations; written declaration sufficient, form; exceptions; relationship to notarial acts.**

(a) Except as provided by subsection (b), whenever a law of this state or any rules and regulations, order or requirement adopted or issued thereunder requires or permits a matter to be supported, evidenced, established or proved by the sworn written declaration, verification, certificate, statement, oath or affidavit of a person, such matter may be supported, evidenced, established or proved with the same force and effect by the unsworn written declaration, verification, certificate or statement dated and subscribed by the person as true, under penalty of perjury, in substantially the following form:

(1) If executed outside this state: “I declare (or verify, certify or state) under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct. Executed on (date). \_\_\_\_\_ (Signature)”

(2) If executed in this state: “I declare (or verify, certify or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). \_\_\_\_\_ (Signature)”

(b) The provisions of subsection (a) do not apply to the following oaths:

(1) An oath of office.

(2) An oath required to be taken before a specified official other than a notary public.

(3) An oath of a testator or witnesses as required for wills, codicils, revocations of wills and codicils and republications of wills and codicils.

(c) A notarial act performed prior to the effective date of this act is not affected by this act. Nothing in this act diminishes or invalidates the recognition accorded to notarial acts by other laws of this state or rules and regulations adopted thereunder.

(d) On or after July 1, 1989, whenever an officer or partner listed in subsection (b) of K.S.A. 17-2718, subsection (c) of K.S.A. 17-7503, subsection (c) of K.S.A. 17-7504, subsection (c) of K.S.A. 17-7505, subsection (d) of K.S.A. 56-1a606 or subsection (d) of K.S.A. 56-1a607 and amendments thereto is required to execute a report before a notary or swear an oath before an officer authorized to administer oaths, in lieu thereof, such person may execute an unsworn declaration if such declaration is in substantial conformity with subsections (a), (b) and (c) of this section.

(e) On or after July 1, 1990, subsections (a), (b) and (c) of this section shall have general application.

**History:** L. 1989, ch. 93, § 1; July 1.

## **CHAPTER 54. – OATHS AND AFFIRMATIONS**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **54-101. Officers authorized to administer oaths.**

Notaries public, judges of courts in their respective jurisdictions, mayors of cities and towns in their respective cities and towns, clerks of courts of record, county clerks, and registers of deeds, are hereby authorized to administer oaths pertaining to all matters wherein an oath is required.

**History:** G.S. 1868, ch. 72, § 1; R.S. 1923, 54-101; L. 1973, ch. 134, § 46; July 1, 1974.

#### **54-102. How administered.**

All oaths shall be administered by laying the right hand upon the Holy Bible, or by the uplifted right hand.

**History:** G.S. 1868, ch. 72, § 2; Oct. 31; R.S. 1923, 54-102.

#### **54-103. Persons having conscientious scruples may affirm.**

Any person having conscientious scruples against taking an oath, may affirm with like effect.

**History:** G.S. 1868, ch. 72, § 3; Oct. 31; R.S. 1923, 54-103.

#### **54-104. Form of commencement and conclusion of oaths.**

All oaths shall commence and conclude as follows: “You do solemnly swear,” etc.; “So help you God.”

Affirmation shall commence and conclude as follows: “You do solemnly, sincerely and truly declare and affirm,” etc.; “And this you do under the pains and penalties of perjury.”

**History:** G.S. 1868, ch. 72, § 4; Oct. 31; R.S. 1923, 54-104.

#### **54-105. Falsifying oaths or affirmations.**

All oaths and affirmations alike subject the party who shall falsify them to the pains and penalties of perjury.

**History:** G.S. 1868, ch. 72, § 5; Oct. 31; R.S. 1923, 54-105.

#### **54-106. Form of oath to be taken by officer.**

All officers elected or appointed under any law of the state of Kansas shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation, as follows:

“I do solemnly swear [or affirm, as the case may be] that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of \_\_\_\_\_ . So help me God.”

**History:** G.S. 1868, ch. 72, § 6; Oct. 31; R.S. 1923, 54-106. 54-107.

## **CHAPTER 58. – PERSONAL AND REAL PROPERTY**

## ARTICLE 22. – CONVEYANCES OF LAND

### **58-2205. How conveyances executed and acknowledged.**

Conveyances of land, or of any other estate or interest therein, may be made by deed, executed by any person having authority to convey the same, or by that person's agent or attorney, and may be acknowledged and recorded as herein directed, without any other act or ceremony whatever.

**History:** G.S. 1868, ch. 22, § 3; Oct. 31; R.S. 1923, 67-205.

### **58-2209. Conveyance of real estate; signature required.**

All deeds or other conveyances of lands, or of any estate or interest therein, shall be subscribed by the party granting the same, or by the party's lawful agent or attorney, and may be acknowledged or proved and certified in the manner prescribed by the uniform law on notarial acts and K.S.A. 58-2216 and amendments thereto.

**History:** G.S. 1868, ch. 22, § 7; R.S. 1923, 67-209; L. 1984, ch. 201, § 15; July 1.

### **58-2211. Acknowledgment of instrument relating to real estate.**

All conveyances, and other instruments affecting real estate must be acknowledged before a person authorized by the uniform law on notarial acts to perform notarial acts or, if acknowledged within this state, by a county clerk, register of deeds or mayor or clerk of an incorporated city.

**History:** G.S. 1868, ch. 22, § 9; R.S. 1923, 67-211; L. 1973, ch. 134, § 47; L. 1984, ch. 201, § 16; July 1.

### **58-2214. Unacknowledged deed; proof of execution and delivery.**

If the grantor die before acknowledging the deed, or if for any other reason the grantor's attendance cannot be procured, in order to make the acknowledgment, or if, having appeared, the grantor refuses to acknowledge it, proof of the due execution and delivery of the deed may be made by any competent testimony.

**History:** G.S. 1868, ch. 22, § 12; Oct. 31; R.S. 1923, 67-214.

### **58-2215. Same; before whom proof made.**

Such proof may be made before any court or officer authorized to take acknowledgments as aforesaid.

**History:** G.S. 1868, ch. 22, § 13; Oct. 31; R.S. 1923, 67-215.

### **58-2216. Same; certificate, contents.**

The certificate endorsed upon the deed thus proved must state:

*First.* The title of the court or officer taking the proof.

*Second.* That it was satisfactorily proved that the grantor was dead, or that, for some other cause, the grantor's attendance could not be procured, in order to make the acknowledgment, or that, having appeared, he or she refused to acknowledge the deed.

*Third.* The names of the witnesses by whom the proof was made, and that it was proved by them that the instrument was executed by the person whose name is thereunto subscribed as a party.

**History:** G.S. 1868, ch. 22, § 14; Oct. 31; R.S. 1923, 67-216.

### **58-2218. False statement and certificate; penalty.**

Any officer who knowingly states a material untruth, in either of the certificates herein contemplated, may be indicted, and fined in any sum not exceeding the value of the property conveyed or otherwise affected by the instrument on which such certificate is endorsed.

**58-2237. Certain defective instruments validated after being on record ten years; instrument, record or copy as evidence.**

When any instrument of writing shall have been on record in the office of the register of deeds in the proper county for the period of ten (10) years, and there is a defect in such instrument because it has not been signed by the proper officer of any corporation, or because of any discrepancy in the corporate name, or because the corporate seal of the corporation has not been impressed on such instrument, or because the record does not show such seal, or because such instrument is not acknowledged, or because of any defect in the execution, acknowledgment, recording or certificate of recording the same, such instrument shall, from and after the expiration of ten (10) years from the filing thereof for record, be valid as though such instrument had, in the first instance, been in all respects duly executed, acknowledged, and certified, and contained the true corporate name, and such instrument shall, after the expiration of ten (10) years from the filing of the same for record, impart to subsequent purchasers, encumbrancers and all other persons whomsoever, notice of such instrument of writing so far as and to the same extent that the same may then be recorded, copied or noted in such books of record, notwithstanding such defect.

Such instrument or the record thereof, or a duly authenticated copy thereof, shall be competent evidence without requiring the original to be produced or accounted for to the same extent that written instruments, duly executed and acknowledged, or the record thereof, are competent: *Provided*, That nothing herein contained shall be construed to affect any rights acquired by grantees, assignees or encumbrancers subsequent to the filing of such instrument for record and prior to the expiration of ten (10) years from the filing of such instrument for record.

**History:** L. 1905, ch. 324, § 1; R.S. 1923, 67-237; L. 1961, ch. 295, § 1; June 30.

**ARTICLE 43. ELECTRONIC NOTARIZATION**

**7-43-1. Definitions.**

As used in this article, the following terms shall have the meanings specified in this regulation:

- (a) "Digital signature" has the meaning specified in K.S.A. 16-1602, and amendments thereto.
- (b) "Electronic" has the meaning specified in K.S.A. 16-1602, and amendments thereto.
- (c) "Electronic notary public," "electronic notary," and "e-notary" mean a notary public who has registered with the secretary of state and who provides electronic notarial acts using a digital certificate authorized by the secretary of state.
- (d) "Electronic document" means information that is created, generated, sent, communicated, received, or stored by electronic means.
- (e) "Electronic notarial act" and "electronic notarization" mean any act involving electronic documents that an electronic notary public is authorized to perform under Kansas law.
- (f) "Electronic notary seal" means the information within a notarized electronic document that includes the notary's name, jurisdiction of appointment, and expiration date of the appointment.
- (g) "Electronic signature" has the meaning specified in K.S.A. 16-1602, and amendments thereto.
- (h) "Notarial act" and "notarization" mean any act that a notary public is authorized to perform under Kansas law.
- (i) "Notarial certificate" means the portion of a notarized document that is completed by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.
- (j) "Notary public" and "notary" mean any person appointed by the secretary of state to perform notarial acts.
- (k) "Principal" means the person for whom an electronic notary is providing a notarial act. (Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005.)

#### **7-43-2. Registration requirements.**

Each individual who wants to become an electronic notary shall meet the following requirements:

- (a) Complete a course of instruction approved by the secretary of state;
  - (b) pass an examination approved by the secretary of state on the course of instruction specified in subsection (a);
  - (c) obtain a digital certificate authorized by the secretary of state;
  - (d) register with the secretary of state on a form prescribed by the secretary of state, which shall include providing proof of compliance with subsections (a), (b), and (c); and
  - (e) pay an information and services fee of \$20.
- (Authorized by and implementing K.S.A. 2004 Supp. 16-1611 and 75-438; effective Dec. 30, 2005.)

#### **7-43-3. Notarization requirements.**

(a) Each electronic notary shall use a digital signature when performing any electronic notarization. Before performing any electronic notarization, each electronic notary shall take reasonable steps to ensure that the digital certificate used to create the digital signature is valid and has not expired, been revoked, or been terminated by its registered certification authority.

(b) When performing any electronic notarization, each electronic notary shall complete a notarial certificate, which shall be attached to, or logically associated with, the electronic document.

(Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005.)

#### **7-43-4. Personal appearance requirement.**

Notwithstanding any security measures used in performing any electronic notarization, an electronic notary public shall not perform any electronic notarial act if the principal does not appear in person before the electronic notary at the time of notarization.

(Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005.)

#### **7-43-5. Form of evidence of authenticity of electronic notarial act.**

If electronic evidence of the authenticity of the official signature and seal of an electronic notary of this state is required on any notarized electronic document transmitted to another state or nation, the electronic evidence shall be attached to, or logically associated with, the document and shall be in a form prescribed by the secretary of state in conformance with any current and pertinent international treaties, agreements, and conventions subscribed to by the United States.

(Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005.)

#### **7-43-6. Applicability of statutes.**

Except as otherwise provided in these regulations, the provisions of K.S.A. 53-101 et seq., and amendments thereto, governing notaries public and K.S.A. 16-1601 et seq., and amendments thereto, governing electronic transactions shall apply to each electronic notary public.

(Authorized by and implementing K.S.A. 2004 Supp. 16-1611; effective Dec. 30, 2005.)