

## SOUTH CAROLINA CODE

### TITLE 26. NOTARIES PUBLIC AND ACKNOWLEDGMENTS CHAPTER 1. NOTARIES PUBLIC

#### **§ 26-1-10. Appointment and term.**

The Governor may appoint from the qualified electors as many notaries public throughout the State as the public good shall require, to hold their offices for a term of ten years. A commission shall be issued to each notary public so appointed and the record of such appointment shall be filed in the office of the Secretary of State. All commissions issued or renewed after July 1, 1967 shall be for the specified term. All commissions issued prior to July 1, 1967, unless renewed for the term herein provided, shall expire and terminate on January 1, 1970 for any person whose last name begins with A through K and on January 1, 1971 for any person whose last name begins with L through Z.

HISTORY: 1962 Code § 49-1; 1952 Code § 49-1; 1942 Code § 3459; 1932 Code § 3459; Civ. C. '22 § 817; Civ. C. '12 § 732; Civ. C. '02 § 662; G. S. 520; R. S. 578; 1871 (15) 538; 1911 (27) 139; 1967 (55) 509.

#### **§ 26-1-20. Endorsement of application.**

Each county legislative delegation shall determine whether the endorsement of notaries public must be by (1) one-half of the members of the legislative delegation representing that county in which the applicant resides or, (2) endorsement by the Senator and Representative in whose district the applicant resides, without other endorsers. Each county legislative delegation shall notify the Secretary of State in writing if it chooses to utilize method (2) within the individual county. If the county legislative delegation chooses to utilize method (2), the applicant, Senator, and Representative shall indicate their respective districts on the application provided to the Secretary of State. If the office of Senator or Representative from that district is vacant at the time the application is submitted, the notary public may be appointed upon the endorsement of a majority of the legislative delegation representing the county in which the applicant resides.

HISTORY: 1962 Code § 49-2; 1952 Code § 49-2; 1942 Code § 3465; 1932 Code § 3465; Civ. C. '22 § 823; Civ. C. '12 § 738; 1911 (27) 139; 1967 (55) 509; 1989 Act No. 56, § 1.

#### **§ 26-1-25. Additional methods of endorsement of applications.**

In addition to the methods of endorsement of applications for notary public commissions provided in Section 26-1-20, a legislator may provide for the endorsement of these applications by authorizing either the member serving as chairman or the member serving as secretary of the legislative delegation of the county in which the applicant resides to sign on the legislator's behalf.

A copy of the resolution adopting any or all of these endorsement methods for a county must be forwarded to the Secretary of State, after which the method or methods of endorsement shall continue to apply in the county unless rescinded by a subsequent delegation resolution.

HISTORY: Added by 1997 Act No. 127, § 1, eff June 13, 1997.

#### **§ 26-1-30. Fees.**

The fee for the issuance or renewal of a commission is twenty-five dollars, collected by the Secretary of State as other fees.

HISTORY: 1962 Code § 49-3; 1952 Code § 49-3; 1942 Code § 3466; 1932 Code § 3466; Civ. C. '22 § 824; Civ. C. '12 § 739; 1911 (27) 139; 1967 (55) 509; 1983 Act No. 151 Part II § 8A; 1988 Act No. 658, Part II, § 3A.

**§ 26-1-40. Oath.**

Every notary public shall take the oath of office prescribed by the Constitution, certified copies of which shall be recorded in the office of the Secretary of State.

HISTORY: 1962 Code § 49-4; 1952 Code § 49-4; 1942 Code § 3460; 1932 Code § 3460; Civ. C. '22 § 818; Civ. C. '12 § 733; Civ. C. '02 § 663; G. S. 521; R. S. 579; 1871 (15) 538, § 2; 1911 (27) 139; 1961 (52) 510.

**§ 26-1-50. Enrollment of commission.**

Every notary public shall, within fifteen days after he has been commissioned, exhibit his commission to the clerk of the court of the county in which he resides and be enrolled by the clerk.

HISTORY: 1962 Code § 49-5; 1952 Code § 49-5; 1942 Code § 3461; 1932 Code § 3461; Civ. C. '22 § 819; Civ. C. '12 § 734; 1911 (27) 139.

**§ 26-1-60. Seal of office; notary shall indicate date of expiration of commission.**

Each notary public shall have a seal of office, which shall be affixed to his instruments of publications and to his protestations. He shall indicate below his signature the date of expiration of his commission. But the absence of such seal or date prior to and after May 30, 1968 shall not render his acts invalid if his official title be affixed thereto.

HISTORY: 1962 Code § 49-6; 1952 Code § 49-6; 1942 Code § 3462; 1932 Code § 3462; Civ. C. '22 § 820; Civ. C. '12 § 735; Civ. C. '02 § 664; G. S. 522; R. S. 580; 1871 (15) 538; 1911 (27) 139; 1967 (55) 509; 1968 (55) 2843.

**§ 26-1-70. Effect of change of name by notary.**

Any notary public whose name is legally changed during his term of office may apply to the Secretary of State in such manner as may be prescribed by him, and the Secretary of State may change the name of the notary upon proper application and upon payment of a fee of ten dollars. The term expires at the same time as the original term.

HISTORY: 1962 Code § 49-6.1; 1967 (55) 509; 1983 Act No. 151 Part II § 8B.

**§ 26-1-80. Jurisdiction.**

The jurisdiction of notaries public shall extend throughout the State.

HISTORY: 1962 Code § 49-7; 1952 Code § 49-7; 1942 Code § 3459; 1932 Code § 3459; Civ. C. '22 § 817; Civ. C. '12 § 732; Civ. C. '02 § 662; G. S. 520; R. S. 578; 1871 (14) 538; 1911 (27) 139.

**§ 26-1-90. Powers generally.**

A notary public may administer oaths, take depositions, affidavits, protests for nonpayment of bonds, notes, drafts and bills of exchange, acknowledgments and proof of deeds and other instruments required by law to be acknowledged and renunciations of dower and perform all other acts provided by law to be performed by notaries public.

HISTORY: 1962 Code § 49-8; 1952 Code § 49-8; 1942 Code § 3463; 1932 Code § 3463; Civ. C. '22 § 821; Civ. C. '12 § 736; Civ. C. '02 § 665; G. S. 523; R. S. 581; 1871 (15) 538; 1911 (27) 139; 1927 (35) 43; 1938 (40) 1559.

**§ 26-1-95. False certification by notary.**

A notary public who, in his official capacity, falsely certifies to affirming, swearing, or acknowledging of a person or his signature to an instrument, affidavit, or writing is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. A notary public convicted under the provisions of this section shall forfeit his commission and shall not be issued another commission.

The court in which the notary public is convicted shall notify the Secretary of State within ten days after conviction.

HISTORY: 1989 Act No. 94, § 1.

**§ 26-1-100. No jurisdiction in criminal cases.**

A notary public shall exercise no power or jurisdiction in criminal cases.

HISTORY: 1962 Code § 49-9; 1952 Code § 49-9; 1942 Code § 3464; 1932 Code § 3464; Civ. C. '22 § 822; Civ. C. '12 § 737; Civ. C. '02 § 666; G. S. 524; R. S. 582, 829; (6) 387.

**§ 26-1-110. Effect of employment of notary as attorney.**

Any attorney at law who is a notary public may exercise all his powers as a notary notwithstanding the fact that he may be interested as counsel or attorney at law in any matter with respect to which he may so exercise any such power and may probate in any court in this State in which he may be counsel.

HISTORY: 1962 Code § 49-10; 1952 Code § 49-10; 1942 Code § 3463; 1932 Code § 3463; Civ. C. '22 § 821; Civ. C. '12 § 736; Civ. C. '02 § 665; G. S. 523; R. S.

**§ 26-1-120. Effect of status of notary as stockholder, director, officer or employee of corporation.**

A notary public who is a stockholder, director, officer or employee of a corporation may take renunciation of dower in any written instrument, take the acknowledgment or the oath of a subscribing witness of any party to a written instrument executed to or by such corporation, administer an oath to any stockholder, director, officer, employee or agent of such corporation or protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such corporation. But when a notary public is individually a party to an instrument it shall be unlawful for him to take the acknowledgment or probate to such instrument executed by or to a corporation of which he is a stockholder, director, officer or employee or to protest any such negotiable instrument owned or held for collection by such corporation.

HISTORY: 1962 Code § 49-11; 1952 Code § 49-11; 1942 Code § 3463; 1932 Code § 3463; Civ. C. '22 § 821; Civ. C. '12 § 736; Civ. C. '02 § 665; G. S. 523; R.

**CHAPTER 3. UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT**

**§ 26-3-10. Citation of chapter.**

This chapter may be cited as the Uniform Recognition of Acknowledgments Act.

HISTORY: 1962 Code § 49-69; 1972 (57) 2374.

**§ 26-3-20. "Notarial acts" defined; persons by whom notarial acts may be performed outside State.**

For the purposes of this chapter, "notarial acts" means acts which the laws and regulations of this State authorize notaries public of this State to perform, including the administration of oaths and affirmations taking proof of execution and acknowledgment of instruments and attesting documents. Notarial acts may be performed outside this State for use in this State with the same effect as if performed by a notary public of this State by the following persons authorized pursuant to the laws and regulations of other governments, in addition to any other persons authorized by the laws and regulations of this State:

- (1) A notary public authorized to perform notarial acts in the place in which the act is

performed.

(2) A judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.

(3) An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States department of State to perform notarial acts in the place in which the notarial act which is performed.

(4) A commissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts if the notarial acts is performed for one of the following or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, and, further, such commissioned officers and other authorized persons, in the manner and under the conditions prescribed by this chapter, also may perform notarial acts inside this State for use in this State with the same effect as if performed by a notary public of this State.

(5) Any other person authorized to perform notarial acts in the place in which the act is performed.

HISTORY: 1962 Code § 49-61; 1972 (57) 2374; 1985 Act No. 14.

### **§ 26-3-30. Proof of Authority.**

(a) If the notarial act is performed by any of the persons described in items (1) to (4), inclusive, of § 26-3-20, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, the signature, rank, or title and serial number, if any, of the person are sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.

(b) If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to act if:

(1) Either a foreign service officer of the United States residing in the country in which the act is performed or a diplomatic or consular officer of the foreign country residing in the United States certifies that a person holding that office is authorized to perform the act.

(2) The official seal of the person performing the notarial act is affixed to (he document; or

(3) The title and indication of authority to perform notarial acts of the person appears either in a digest of foreign law or in a list customarily used as a source of such information.

(c) If the notarial act is performed by a person other than one described in subsections (a) and (b), there is sufficient proof of the authority of that person to act if the clerk of a court of record in the place in which the notarial act is performed certifies to the official character of that person and to his authority to perform the notarial act.

(d) The signature and title of the person performing the act are prima-facie evidence that he is a person with the designated title and that the signature is genuine.

HISTORY: 1962 Code § 49-62; 1972 (57) 2374.

### **§ 26-3-40. What persons taking acknowledgments shall certify.**

The person taking an acknowledgment shall certify that:

(1) The person acknowledging appeared before him and acknowledged he executed the instrument;

(2) The person acknowledging was known to the person taking the acknowledgment,

or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

HISTORY: 1962 Code § 49-63; 1972 (57) 2374.

**§ 26-3-50. Form of certification.**

The form of a certificate of acknowledgment used by a person whose authority is recognized under section 1 shall be accepted in this State if:

- (1) The certificate is in a form prescribed by the laws or regulations of this State;
- (2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
- (3) The certificate contains the words “acknowledged before me,” or their substantial equivalent.

HISTORY: 1962 Code § 49-64; 1972 (57) 2374.

**§ 26-3-60. “Acknowledged before me” defined.**

The words “acknowledged before me” means that:

- (1) That the person acknowledging appeared before the person taking the acknowledgment;
- (2) That he acknowledged he executed the instrument;
- (3) that, in the case of:
  - (a) A natural person, he executed the instrument for the purposes therein stated;
  - (b) A corporation, the officer or agent acknowledged he held the position or title set forth in the instrument and certificate, he signed tile instrument on behalf of tile corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated;
  - (c) A partnership, the partner or agent acknowledged he signed the instrument on behalf of the partnership by proper authority and he executed the instrument as the act of tile partnership for the purposes therein stated;
  - (d) A person acknowledging as principal by an attorney in fact, he executed the instrument by proper authority as the act of the principal for the purposes therein stated;
  - (e) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he signed the instrument by proper authority and he executed the instrument in the capacity and for the purposes therein stated; and
- (4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

HISTORY: 1962 Code § 49-65; 1972 (57) 2374.

**§ 26-3-70. Statutory Short Forms of Acknowledgment.**

The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this State. The forms shall be known as “Statutory Short Forms of Acknowledgment” and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

- (1) For an individual acting in his own right:

State of .....  
County of .....

The foregoing instrument was acknowledged before me this (date) by (name of person

acknowledged.)

(Signature of person taking acknowledgment)  
(Title or rank)  
(Serial number, if any)

(2) For a corporation:

State of .....  
County of .....

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent title of officer or agent) of (name of corporation acknowledging a (state or place of incorporation) corporation on behalf of the corporation.

(Signature of person taking acknowledgment)  
(Title or rank)  
(Serial number, if any)

(3) For a partnership:

State of .....  
County of .....

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of person taking acknowledgment)  
(Title or rank)  
(Serial number, if any)

(4) For an individual acting as principal by an attorney in fact:

State of .....  
County of .....

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of person taking acknowledgment)  
(Title or rank)  
(Serial number, if any)

(5) By any public officer, trustee or personal representative:

State of .....  
County of .....

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of person taking acknowledgment)

(Title or rank)

(Serial number if any)

HISTORY: 1962 Code § 49-66; 1972 (57) 2374.

**§ 26-3-80. Application of chapter.**

A notarial act performed prior to May 8, 1972 is not affected by this chapter. This chapter provides an additional method of proving notarial acts. Nothing in this chapter diminishes or invalidates the recognition accorded to notarial acts by other laws or regulations of this State.

HISTORY: 1962 Code § 49-67; 1972 (57) 2374.

**§ 26-3-90. Construction.**

This chapter shall be so interpreted as to make uniform the laws of those states which enact it.

HISTORY: 1962 Code § 49-68; 1972 (57) 2374.

**TITLE 30. PUBLIC RECORDS  
CHAPTER 5. RECORDING GENERALLY**

**§ 30-5-30. Prerequisites to recording.**

Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State:

(1) The execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath. If the affidavit is taken without the limits of this State, it may be taken before:

(a) a commissioner appointed by dedimus issued by the clerk of the court of common pleas of the county in which the instrument is to be recorded,

(b) a commissioner of deeds of this State,

(c) a clerk of a court of record who shall make certificate of the deed or other instrument under his official seal,

(d) a justice of the peace who shall append to the certificate his official seal,

(e) a notary public who shall affix to the deed or other Instrument his official seal within the State of his appointment, which is a sufficient authentication of his signature, residence, and official character,

(f) before a minister, ambassador, consul general, consul, or vice-consul, or consular agent of the United States of America, or

(g) in the case of any officer or enlisted man of the United States Army, Air Force, Navy, Marine Corps, or Coast Guard on active duty outside the State or any civilian employee of any such organization on active duty outside the continental confines of the United States, any commissioned officer of the Army, Air Force, Navy, Marine Corps, or Coast Guard, if the probating officer states his rank, branch, and organization;

(2) The Uniform Recognition of Acknowledgments Act must be complied with; or

(3) The person executing it shall submit an affidavit subscribed to before a person

authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument. HISTORY: 1962 Code § 60-51; 1952 Code § 60-51; 1942 Code § 3632; 1932 Code § 3632; Civ. C. '22 § 2176; Civ. C. '12 § 1352; Civ. C. '02 § 948; G. S. 768; R. S. 818; 1880 (17) 319; 1889 (20) 367; 1908 (25) 104; 1909 (26) 84; 1910 (26) 621; 1951 (47) 447; 1972 (57) 2393; 1988 Act No. 494, § 8(10).

HISTORY: 1994 Act No. 382, § 1, eff May 10, 1994.

**EDITOR'S NOTE —**

1994 Act No. 382, § 3, provides as follows: "SECTION 3. This act takes effect upon approval by the Governor and applies to all deeds or other instruments in writing executed after December 31, 1994."

EFFECT OF AMENDMENT — The 1994 amendment rewrote this section to add an alternative method as a prerequisite for recording a deed.

**TITLE 34. BANKING, FINANCIAL INSTITUTIONS AND MONEY  
CHAPTER 19. SAFE-DEPOSIT BOXES**

**§ 34-19-70. Opening box when rental is one year in default.**

If the rental due on a safe-deposit box has not been paid for one year, the lessor may send a notice by registered mail to the last known address of the lessee stating that the safe-deposit box will be opened and its contents stored at the expense of the lessee unless payment of the rental is made within thirty days. If the rental is not paid within thirty days from the mailing of the notice, the box may be opened in the presence of an officer, manager or assistant manager of the lessor and of a notary public who is not a director, officer, employee or stockholder of the lessor. The contents shall be sealed in a package by the notary public who shall write on the outside the name of the lessee and the date of the opening. The notary public shall execute a certificate reciting the name of the lessee, the date of the opening of the box and a list of its contents. The certificate shall be included in the package and a copy of the certificate shall be sent by registered mail to the last known address of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not exceeding the rental previously charged for the box. HISTORY: 1962 Code § 8-507; 1952 Code §§ 8-572 to 8-574; 1942 Code § 7902; 1932 Code § 7902; 1928 (35) 1271; 1951 (47) 363, 513; 1952 (47) 1932.

**§ 34-19-80. Sale of contents unclaimed for two years.**

If the contents of the safe-deposit box have not been claimed within two years of the mailing of the certificate as required by § 34-19-70, the lessor may send a further notice to the last known address of the lessee stating that, unless the accumulated charges are paid within thirty days, the contents of the box will be sold at public auction at a specified time and place, or, in the case of securities listed on a stock exchange, will be sold upon the exchange on or after a specified date and that unsalable items will be destroyed. The time, place and manner of sale shall also be posted conspicuously on the premises of the lessor and advertised once seven days prior to the sale in a newspaper of general circulation in the community. If the articles are not claimed, and the accrued rent and disbursements of: lessor paid, they may then be sold in accordance with the notice. HISTORY: 1962 Code § 8-508; 1952 Code § 8-576; 1942 Code § 7902; 1932 Code § 7902; 1928 (35) 1271; 1951 (47) 363, 513; 1952 (47) 1932.