

T

ITILE 49 NOTARIES

PUBLIC

1. Uniform Law On Notarial Acts

CHAPTER 1

GENERAL PROVISIONS

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§ 1. Appointment

The Principal Chief through his designee, the Secretary of State of the Cherokee Nation, shall appoint and commission in the Cherokee Nation notaries public, who shall hold their office for four (4) years. An applicant for a notary commission shall be eighteen (18) years of age or older and a citizen of the Cherokee Nation. All notary commissions shall run in the name and by the authority of the Cherokee Nation, be signed by the Principal Chief and sealed with the Seal of the Cherokee Nation. Said commissions shall not be attested.

History

Amended. LA 04-13, eff. February 15, 2013.

Library References

Notaries O2.
Westlaw Topic No. 276.
C.J.S. Notaries §§ 3 to 9.

§ 2. Oath, signature, bond and seal—Fees

A. Before entering upon the duties of his or her office every notary public so appointed and commissioned shall file in the office of the court clerk the commission issued to the notary, the notary's oath of office, official signature, an impression of the notary's official seal, and a good and sufficient bond to the Cherokee Nation, in the sum of One Thousand Dollars (\$1,000.00), with one or more sureties to be approved by the court clerk, conditioned for the faithful performance of the duties of his office.

B. Such commission, bond, and oath shall be recorded in the office of such court clerk, as clerk of the district court. The commission shall be returned to the notary. The bond and oath shall be retained by the court clerk to be filed and recorded in his office. The filing of such commission, bond, official signature, and impression of official seal in the office of the court clerk shall be deemed sufficient evidence to enable the court clerk to certify that the person so commissioned is a notary public, duly commissioned and acting as such, during the time such commission is in force. Upon the filing of his commission with the court clerk, every notary public shall pay to the court clerk the sum of Twenty-Five Dollars (\$25.00) to be held and accounted for by the court clerk as fees of his office.

C. Applications for renewal shall follow the same procedure except the fee shall be Twenty Dollars (\$20.00).

History

Amended. LA 04-13, eff. February 15, 2013.

Library References

Notaries ○2.
Westlaw Topic No. 276.
C.J.S. Notaries §§ 3 to 9.

§ 3. Blanks for bond and oath

Blanks for bonds and oaths of office shall be furnished with the commission by the Principal Chief.

History

Amended. LA 04-13, eff. February 15, 2013.

§ 4. Reserved

§ 5. Official seal

Every notary shall provide a notarial seal containing his or her name and county of residence and the seal shall also state it is a notary seal for the Cherokee Nation. Each notary shall authenticate all his or her official acts, attestations and instruments with this seal; and he or she shall add to his or her official signature the date of expiration of his or her commission as such notary public. If any notary public shall neglect or refuse to attach to his or her official signature the date of expiration of his or her commission he or she shall be deemed guilty of a crime, and upon conviction thereof shall be fined in any sum not exceeding Fifty Dollars (\$50.00).

History

Amended. LA 04-13, eff. February 15, 2013.

Library References

Notaries ○8.
Westlaw Topic No. 276.
C.J.S. Notaries §§ 12 to 14.

§ 6. Authority of notary

Notaries public shall have authority within the Cherokee Nation to make the proof and acknowledgment of deeds and other instruments of writing required to be proved or acknowledged; to administer oaths; to demand acceptance or payment of foreign or inland bills of exchange and promissory notes, and protest the same for non-acceptance of nonpayment, as the same may require, and to exercise such other powers and duties as by law of nations and commercial usage may be performed by notaries public. A notary may not notarize his or her own signature.

History

Amended. LA 04–13, eff. February 15, 2013.

Library References

Notaries ○4.
Westlaw Topic No. 276.
C.J.S. Notaries §§ 18 to 24, 26 to 27.

§ 7. Record of protests

In cases of protests for banks, notaries shall keep a register thereof in a book provided for that purpose by the bank, and the notary shall not be required to deliver such register to the court clerk, but shall leave the same in the possession of such bank.

History

Amended. LA 04–13, eff. February 15, 2013.

Library References

Notaries ○9.
Westlaw Topic No. 276.
C.J.S. Notaries §§ 10 to 11, 15.

§ 8. Official record

Every notary shall keep a fair record of his or her official acts, and if required shall give a certified copy of any record in his office, upon the payment of the fees therefore.

History

Amended. LA 04–13, eff. February 15, 2013.

Library References

Notaries ○9.
Westlaw Topic No. 276.
C.J.S. Notaries §§ 10 to 11, 15.

§ 9. Vacancy

If any notary die, resign, be disqualified or remove from the Nation, his or her record and official public papers of his or her office, shall, within thirty (30) days be delivered to the court clerk.

49 CNCA § 9

NOTARIES PUBLIC

History

Amended. LA 04–13, eff. February 15, 2013.

Library References

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Notaries 2.
Westlaw Topic No. 276.

§ 10. Statute of limitations

No suit shall be instituted against any such notary or his or her securities more than three (3) years after the cause of action accrues.

History

Amended. LA 04–13, eff. February 15, 2013.

Library References

Indians ○508.
Westlaw Topic No. 209.

§ 11. Oklahoma State notary provisions not applicable to Cherokee Nation notaries public

A. The State of Oklahoma Provisions regarding notaries public does not apply to the Cherokee Nation notaries public.

B. There is no limitation on the number of absentee ballots a Cherokee Nation notary can notarize.

C. There is no restriction in a tribal notary assisting the voters in signing up for an absentee ballot.

History

Source. LA 04–13, eff. February 15, 2013.

Oklahoma Statutes

Notaries Public, see 49 O.S. § 1 et seq.

Library References

Indians ○211.
Westlaw Topic No. 209.

C.J.S. Indians §§ 5, 66, 68 to 69, 129, 131 to 133.

CHAPTER 2

UNIFORM LAW ON NOTARIAL ACTS

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§ 111. Short title

Sections 111 through 120 of this title shall be known and may be cited as the “Uniform Law on Notarial Acts”.

§ 112. Definitions

As used in the Uniform Law on Notarial Acts:

1. **“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.
2. **“In a representative capacity”** means:
 - a. For and on behalf of a corporation, partnership, trust, or other entity, as an authorized officer, agent, partner, trustee, or other representative;
 - b. As a public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;
 - c. As an attorney-in-fact for a principal;
 - d. in any other capacity as an authorized representative of another.
3. **“Notarial acts”** means any act that a notary public of this Nation 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.
4. **“Notarial officer”** means a notary public or any other person authorized to perform notarial acts in the place in which the act is performed.
5. **“Verification upon oath or affirmation”** means a declaration that a statement is true made by a person upon oath or affirmation.

§ 113. Taking acknowledgment or verification—Witnessing or attesting signature—Certifying or attesting copies—Making or noting protest—Evidence of true signature

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. In the case of official records, only the custodian of the official records may issue an official certified copy.

E. In making or noting a protest of a negotiable instrument the notarial officer must determine the matters set forth in 80 CNCA § 3-505.

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

Library References

Acknowledgment O22, 24, 28.
Westlaw Topic No. 12.

C.J.S. Acknowledgments §§ 42 to 44, 47, 50
to 59.

§ 114. Person who may perform notarial acts—Federal acts—Genuineness of signature

A. A notarial act may be performed within this Nation by the following persons:

1. A notary public of this Nation or the State of Oklahoma;
2. A Judge, Clerk, or Deputy Clerk of any Court of this Nation or the State of Oklahoma;
3. All judge advocates, staff judge advocates, assistant judge advocates and all legal officers of the state military forces in performance of their official duties for military personnel and their dependents.
4. Any other person authorized to perform the specific act by the law of this state.

B. Notarial acts performed within this Nation under federal authority have the same effect as if performed by a notarial officer of this Nation.

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.

Cross References

Falsely holding out as notary or performing notarial act—Penalty, see 21 CNCA § 1524.

Oklahoma Statutes

Evidence of dishonor, see 12A O.S. § 3-505.

Library References

Acknowledgment O14.
Westlaw Topic No. 12.

C.J.S. Acknowledgments §§ 24 to 25, 27 to 37.

§ 115. Notarial acts performed in a state, commonwealth, territory, district, or possession of the United States

A. A notarial act has the same effect pursuant to the laws of this Nation as if performed by a notarial officer of this Nation, if performed in a 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.
3. All judge advocates, staff judge advocates, assistant judge advocates and all legal officers of the state military forces.
4. 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 have the same effect as if performed by a notarial officer of this Nation.

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 this section conclusively establish the authority of a holder of that title to perform a notarial act.

Library References

Acknowledgment O19.
Westlaw Topic No. 12.
C.J.S. Acknowledgments §§ 24 to 25.

§ 116. Notarial acts performed by certain federal officers

A. A notarial act has the same effect pursuant to the laws of this Nation as if performed by a notarial officer of this Nation 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.

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 this section conclusively establish the authority of a holder of that title to perform a notarial act.

Library References

Acknowledgment ○16.

Westlaw Topic No. 12.

C.J.S. Acknowledgments §§ 24, 27 to 30.

§ 117. Notarial acts performed by officer of foreign nation or multinational or international organization

A. A notarial act has the same effect pursuant to the laws of this Nation as if performed by a notarial officer of this Nation 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.

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 this section 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.

Library References

Acknowledgment ○18, 19.

Westlaw Topic No. 12.

C.J.S. Acknowledgments §§ 24 to 25, 32.

§ 118. Certification of notarial act

A. A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate shall 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 rank of the officer.

B. A certificate of a notarial act is sufficient if it meets the requirements of subsection (A) of this section and it:

1. Is in the short form set forth in 49 CNCA § 119;
2. Is in a form otherwise prescribed by the law of this Nation;
3. Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed;
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 49 CNCA § 113.

Library References

Acknowledgment O28, 35.
Westlaw Topic No. 12.
C.J.S. Acknowledgments §§ 50 to 64.

§ 119. Short form certificates of notarial acts

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by 49 CNCA § 118(A);

1. For an acknowledgment in an individual capacity:

Cherokee Nation
State of
County of

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

(Seal, if any)

(Signature of notarial officer)

Title (and Rank)
(My commission expires:)

2. For an acknowledgment in a representative capacity:

Cherokee Nation
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).

(Seal, if any)

(Signature of notarial officer)

Title (and rank)
(My commission expires:)

3. For a verification upon oath or affirmation:
- Cherokee Nation
State of
County of

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

(Seal, if any)

(Signature of notarial officer)

Title (and rank)
(My commission expires:)

4. For witnessing or attesting a signature:
- Cherokee Nation
State of
County of

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

(Seal, if any)

(Signature of notarial officer)

Title (and rank)
(My commission expires:)

5. For attestation of a copy of a document:
- Cherokee Nation
State of
County of

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

(Seal, if any)

(Signature of notarial officer)

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(My commission expires:)

Library References

Acknowledgment 28D35.

Westlaw Topic No. 12.

C.J.S. Acknowledgments §§ 50 to 64.

§ 120. Interpretation of act

The Uniform Law on Notarial Acts shall be so interpreted as to make uniform the laws of those states which enact it.