

CODE OF ALABAMA 1975

**TITLE 36. PUBLIC OFFICERS AND EMPLOYEES.
CHAPTER 20. NOTARIES PUBLIC
ARTICLE 1. GENERALLY**

Section 36-20-1 Appointment and commissioning; term of office; fee of probate judge for issuance of notary commissions; report to secretary of state by probate judge as to notaries appointed and commissioned.

A competent number of notaries public for each county shall be appointed and commissioned by the probate judges of the several counties of the state and shall hold office for four years from the date of their commissions. The probate judges shall collect a fee of $1.00 for each such notary commission issued. The probate judges shall also report to the secretary of state the name, county, date of issuance and date of expiration of the commission of each notary public appointed and commissioned under this section.

(Code 1852, §854; Code 1867, §1080; Code 1876, §1325; Code 1886, §1102; Code 1896, §3021; Code 1907, §5162; Code 1923, §9328; Code 1940, T. 40, §1; Acts 1963, No. 150, p. 525; Acts 1976, No. 694, p. 961, §1.)

Section 36-20-2 Vacation of office by removal from county.

Notaries public shall vacate their office by removal from the county.

(Code 1852, §855; Code 1867, §1081; Code 1876, §§1326, 1327; Code 1886, §1103; Code 1896, §3023; Code 1907, §5164; Code 1923, §9240; Code 1940, T. 40, §3.)

Section 36-20-3 Bond.

Notaries public must give bond with sureties, to be approved by the judge of probate of the county for which they are appointed, in the sum of $10,000.00, payable to the state of Alabama and conditioned to faithfully discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond must be executed, approved, filed and recorded in the office of the judge of probate before they enter on the duties of such office.

(Code 1852, §856; Code 1867, §1082; Code 1876, §1328; Code 1886, §1104; Code 1896, §3024; Code 1907, §5165; Code 1923, §9241; Code 1940, T. 40, §4; Acts 1987, No. 87-361, p. 523, §1.)

Section 36-20-4 Seal.

For the authentication of his official acts, each notary must provide a seal of office, which must present, by its impression, his name, office, state and the county for which he was appointed.

(Code 1852, §858; Code 1867, §1084; Code 1876, §1330; Code 1886, §1106; Code 1896, §3026; Code 1907, §5167; Code 1923, §9243; Code 1940, T. 40, §6.)

Section 36-20-5 Powers.

Notaries public shall have authority to:

- (1) Administer oaths in all matters incident to the exercise of their office;
- (2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office;
- (3) Demand acceptance and payment of bills of exchange, promissory notes and all other writings which are governed by the commercial law as to days of grace, demand and notice of nonpayment and protest the same for nonacceptance or nonpayment and to

give notice thereof as required by law; and

(4) Exercise such other powers as, according to commercial usage or the laws of this state, may belong to notaries public.

(Code 1852, §857; Code 1867, §1083; Code 1876, §1329; Code 1886, §1105; Code 1896, §3025; Code 1907, §5166; Code 1923, §9242; Code 1940, T. 40, §5.)

Section 36-20-6 Fees.

Notaries public are entitled to the following fees: the sum of \$1.50 and necessary postage for all services rendered in connection with the protest of any bill of exchange for acceptance, or of any bill of exchange, promissory note, check or other writing for payment and shall not charge any other fees therefor; for any oath, certificate and seal taken under subdivision (1) of section 36-20-5, \$.50; for giving copies from register, \$.20 for each 100 words; for each certificate and seal to such copy, \$.25; and for giving any other certificate and affixing seal of office, \$.50.

(Code 1852, §863; Code 1867, §1090; Code 1876, §5065; Code 1886, §1113; Code 1896, §3033; Code 1907, §5174; Code 1923, §9250; Code 1940, T. 40, §14.)

Section 36-20-7 Notary public to maintain register of official acts; provision of certified copies from register generally.

Each notary public must keep a fair register of all his official acts and give a certified copy therefrom, when required, on payment of his legal fees.

(Code 1852, §859; Code 1867, §1085; Code 1876, §1332; Code 1886, §1107; Code 1896, §3027; Code 1907, §5168; Code 1923, §9244; Code 1940, T. 40, §7.)

Section 36-20-8 Register to be delivered to probate judge upon death, resignation, etc., of notary; liability of person failing to deliver notary's register to probate judge on demand generally.

In case of the death, resignation, removal or expiration of his term of office, the registers of any notary must, within 30 days thereafter, be delivered to the judge of probate of the county, and any person having the same in possession and refusing to deliver them on demand to such judge is liable to an action for the recovery thereof in the name of such judge.

(Code 1852, §860; Code 1867, §1086; Code 1876, §1333; Code 1886, §1108; Code 1896, §3028; Code 1907, §5169; Code 1923, §9245; Code 1940, T. 40, §8.)

Section 36-20-9 Penalty for failure to deliver notary's register to probate judge on demand.

Any person who, after the death, resignation, removal or expiration of the term of office of any notary public, having in possession the register kept by such notary public, refuses, on demand, to deliver the same to the judge of probate of the county, shall, on conviction, be fined not less than \$100.00.

(Code 1852, §860; Code 1867, §1086; Code 1876, §1333; Code 1886, §3964; Code 1896, §5137; Code 1907, §7489; Code 1923, §5082; Code 1940, T. 40, §9.)

Section 36-20-10 Probate judge may deliver register to another notary; provision of certified copies from register.

The registers referred to in section 36-20-8 may, by such judge, be delivered to any other notary of his county, who must give certified copies from the same to any person making application therefor on payment of the legal fees. While the registers are in the possession of the judge of probate, he must give certified copies from the same on application and

the payment of the fees therefor in the same manner as notaries public.

(Code 1852, §§861, 862; Code 1867, §§1087, 1088; Code 1876, §§1334, 1335; Code 1886, §1109; Code 1896, §3029; Code 1907, §5170; Code 1923, §9246; Code 1940, T. 40, §10.)

Section 36-20-11 Performance or assumption of authority to perform notarial act without commission.

Any person who, having been a notary or a notary public for the state at large, willfully performs or assumes the authority to perform a notarial act after his commission expires or any person who without a notary's commission assumes the authority and performs a notarial act shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for not more than one year.

(Acts 1949, No. 586, p. 913.)

ARTICLE 2. NOTARIES PUBLIC FOR STATE AT LARGE

Section 36-20-30 Appointment and commissioning; term of office; powers, duties and territorial jurisdiction; fee of probate judge for issuance of notary commissions; report to secretary of state by probate judge as to notaries appointed and commissioned.

A competent number of notaries public for the state at large shall be appointed and commissioned by the probate judges of the several counties of the state and shall hold office for four years from the date of their commission. Such notaries public for the state at large shall perform all the acts and exercise all authority now performed and exercised by notaries public under the general laws of the state of Alabama. The jurisdiction of such notaries public shall not be limited to the counties of their residence but shall extend to any county of the state. The probate judges shall collect a fee of $1.00 for each such notary commission issued. The probate judges shall also report to the secretary of state the name, county of residence, date of issuance and date of expiration of the commission of each notary public appointed and commissioned under this section and the fact that said notary was appointed and commissioned for the state at large.

(Acts 1943, No. 431, p. 400, §1; Acts 1963, No. 151, p. 525; Acts 1976, No. 694, p. 961, §2.)

Section 36-20-31 Bond.

Notaries public appointed under this article must give bond with sureties to be approved by the judge of probate of the county of their residence in the sum of \$10,000.00, payable to the state of Alabama and conditioned to faithfully discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond must be executed, approved, filed and recorded in the office of the judge of probate of the county of their residence before they enter on the duties of such office. Such notaries public for the state at large, in the event of any breach of the conditions of their official bonds, may be sued in the county of their residence or in the county in which the breach was committed or in the county where the party or parties who suffered damages from the breach reside.

(Acts 1943, No. 431, p. 400, §2; Acts 1987, No. 87-361, p. 523, §1.)

Section 36-20-32 Seal.

For the authentication of his official acts, each such notary must provide a seal of office which must present, by its impression, his name, office and the state for which he was appointed.

(Acts 1943, No. 431, p. 400, §3.)

ARTICLE 3. CIVIL LAW NOTARIES.

§ 36-20-50. Definitions.

For purposes of this article, the following terms shall have the following meanings:

(1) **AUTHENTICATION INSTRUMENT.** An instrument executed by an Alabama international notary referencing this article, which includes the particulars and capacities to act of transacting parties, a confirmation of the full text of the instrument, the signatures of the parties or legal equivalent thereof, and the signature and seal of an Alabama international notary as prescribed by the Secretary of State for use in a jurisdiction outside the borders of the United States.

(2) **ALABAMA INTERNATIONAL NOTARY.** A person who is admitted to the practice of law in this state, who has practiced law for at least five years, and who is appointed by the Secretary of State as an Alabama international notary.

(3) **PROTOCOL.** A registry maintained by an Alabama international notary in which the acts of the Alabama international notary are archived.

(Act 99-449, § 1.)

§ 36-20-51. Alabama international notaries.

(a) The Secretary of State may appoint Alabama international notaries and administer this article.

(b) An Alabama international notary may issue authentication instruments for use in non-United States jurisdictions. An Alabama international notary may not issue authentication instruments for use in a non-United States jurisdiction if the United States Department of State has determined that the jurisdiction does not have diplomatic relations with the United States or is a terrorist country, or if trade with the jurisdiction is prohibited under the Trading With the Enemy Act of 1917, as amended, 50 U.S.C. § 1, et seq.

(c) The authentication instruments of an Alabama international notary shall not be considered authentication instruments within the borders of the United States and shall have no consequences or effects as authentication instruments in the United States.

(d) The authentication instruments of an Alabama international notary shall be recorded in the Alabama international notary's protocol in a manner prescribed by the Secretary of State.

(Act 99-449, p. 1041, § 2; Act 2001-967, 3rd Sp. Sess. p. 861, §1.)

Section 36-20-52. Rules of procedure.

The Secretary of State may adopt rules prescribing all of the following:

(1) The form and content of signatures and seals or their legal equivalents for authentication instruments.

(2) Procedures for the permanent archiving of authentication instruments.

(3) The charging of reasonable fees to be retained by the Secretary of State for the purpose of administering this article.

(4) Educational requirements and procedures for testing applicants' knowledge of the effects and consequences associated with authentication instruments in jurisdictions outside the United States.

(5) Procedures for the disciplining of Alabama international notaries, including the suspension and revocation of appointments for misrepresentation or fraud regarding the Alabama international notary's authority, the effect of the Alabama international notary's authentication instruments, or the identities or acts of the parties to a transaction.

(6) Other matters necessary for administering this article.

(Act 99-449, § 3.)

Section 36-20-53. Discipline, etc., relating to practice of law.

The Secretary of State shall not regulate, discipline or attempt to discipline, or establish any educational requirements for any Alabama international notary for, or with regard to, any action or conduct that would constitute the practice of law in this state. The Secretary of State shall not establish as a prerequisite to the appointment of an Alabama international notary any test containing any question that inquires of the applicant's knowledge regarding the practice of law in the United States.

(Act 99-449, § 4.)

Section 36-20-54. Construction.

This article shall not be construed as abrogating the provisions of any other act relating to notaries public, attorneys, or the practice of law in this state.

(Act 99-449, § 5.)

**TITLE 35. PROPERTY
CHAPTER 4 CONVEYANCES AND CREATION OF ESTATES.**

§ 35-4-20. Conveyance required to be in writing; signature; attestation by witnesses.

Conveyances for the alienation of lands must be written or printed, or partly written and partly printed, on parchment or paper, and must be signed at their foot by the contracting party or his agent having a written authority; or, if he is not able to sign his name, then his name must be written for him, with the words "his mark" written against the same, or over it; the execution of such conveyance must be attested by one witness or, where the party cannot write, by two witnesses who are able to write and who must write their names as witnesses; or, if he can write his name but does not do so and his name is written for him by another, then the execution must be attested by two witnesses who can and do write their names.

(Code 1852, § 1266; Code 1867, § 1535; Code 1876, § 2145; Code 1886, § 1789; Code 1896, § 982; Code 1907, § 3335; Code 1923, § 6838; Code 1940, T. 47, § 22.)

§ 35-4-21. Seal unnecessary.

A seal is not necessary to convey the legal title to land to enable the grantee to bring a civil action. Any instrument in writing, signed by the grantor or his agent having a written authority, is effectual to transfer the legal title to the grantee, if such was the intention of the grantor, to be collected from the entire instrument.

(Code 1852, § 2198; Code 1867, § 2599; Code 1876, § 2948; Code 1886, § 2694; Code 1896, § 983; Code 1907, § 3356; Code 1923, § 6839; Code 1940, T. 47, § 23.)

§ 35-4-22. Effect of writings importing to be under seal.

All writings which import on their face to be under seal are to be taken as sealed instruments and have the same effect as if the seal of the parties was affixed thereto.

(Code 1852, § 1315; Code 1867, § 1585; Code 1876, § 2194; Code 1886, § 1840; Code 1896, § 1036; Code 1907, § 3363; Code 1923, § 6847; Code 1940, T. 47, § 32.)

§ 35-4-23. Acknowledgment — Operates as compliance with witness requirements.

The acknowledgment provided for in this article operates as a compliance with the requisitions of section 35-4-20 upon the subject of witnesses.

(Code 1852, § 1267; Code 1867, § 1536; Code 1876, § 2146; Code 1886, § 1790; Code 1896, § 984; Code 1907, § 3357; Code 1923, § 6840; Code 1940, T. 47, § 24.)

§ 35-4-24. Acknowledgment — Officers authorized to take in this state.

Acknowledgments and proofs of conveyances may be taken by the following officers within this state: Judges of the supreme court, the court of civil appeals, the court of criminal appeals, circuit courts and district courts, and the clerks of such courts; registers of the circuit court, judges of the court of probate, and notaries public.

(Code 1852, § 1276; Code 1867, § 1545; Code 1876, § 2155; Code 1886, § 1799; Code 1896, § 993; Code 1907, § 3358; Code 1923, § 6841; Code 1940, T. 47, § 25.)

§ 35-4-25. Same — Officers holding stock in certain corporations.

An acknowledgment or proof of any deed, mortgage or other conveyance to or by a corporation, national banking association, building and loan association or savings and loan association at any time heretofore or hereafter taken by an officer authorized by law to take acknowledgments and proofs of conveyances and at that time owning or holding not more than one percent of the total issued and outstanding capital stock of such corporation, national banking association, building and loan association or savings and loan association, and not then holding any office in said corporation, national banking association or building and loan association shall have the same effect as if such officer did not hold or own any of such stock.

(Acts 1931, No. 593, p. 675; Code 1940, T. 47, § 26.)

§ 35-4-26. Same — Officers authorized to take in other states or foreign countries.

Acknowledgments, proofs of conveyances and affidavits may be taken within the United States and beyond the state of Alabama, by judges and clerks of any federal court, judges and clerks of any state court of record in any state, notaries public, commissioners appointed by the governor of this state, or the commissioner of deeds for the state wherein the acknowledgment is taken, or by any commissioned officer of any of the armed forces of the United States. Beyond the limits of the United States, such acknowledgments, proofs and affidavits may be taken by the judges of any court of record, mayor or chief magistrate of any city, town, borough or county, or by any diplomatic, consular or commercial agent of the United States, notaries public or by any commissioned officer of any of the armed forces of the United States; provided, however, that when any such acknowledgment shall be taken by any commissioned officer of any of the armed forces of the United States, no seal of office shall be required, and his signature shall be prima facie proof of his authority hereunder.

(Code 1852, § 1277; Code 1867, § 1546; Code 1876, § 2156; Code 1886, § 1800; Code 1896, § 994; Code 1907, § 3359; Code 1923, § 6842; Code 1940, T. 47, § 27; Acts 1943, No. 240, p. 195; Acts 1947, No. 47, p. 15.)

§ 35-4-27. Acknowledgment — Proof of official seal.

All deeds, powers of attorney and other instruments of conveyance, affidavits or contracts purporting to be acknowledged, proved or verified as prescribed by law, and which have been recorded or may hereafter be recorded in the office of the judge of probate of the proper county in this state, and transcripts thereof from such record shall be prima facie evidence that the seal of such officer acknowledging or attesting such instrument was his official seal and that it was affixed by him in his official capacity; and all such instruments and certified copies thereof shall have the same force and effect and shall be received in evidence in any court in this state without further proof of the due execution of such instrument or proof of the seal of any officer so certifying or attesting and that the same was affixed by him as his official seal, in his official capacity, whether he be an officer of this state or of any other state, territory or district of the United States.

(Acts 1920, No. 82, p. 135; Code 1923, § 6843; Code 1940, T. 47, § 28.)

§ 35-4-28. Same — Powers of attorney, etc.

Powers of attorney or other instruments conferring authority to convey property or to enter satisfaction of mortgages or other liens may be proved or acknowledged and recorded in the same manner and must be received as evidence to the same extent as conveyances.

(Code 1852, § 1278; Code 1867, § 1547; Code 1876, § 2157; Code 1886, § 1801; Code 1896, § 995; Code 1907, § 3360; Code 1923, § 6844; Code 1940, T. 47, § 29.)

§ 35-4-29. Form of acknowledgment.

The following are substantially the forms of acknowledgment to be used in this state, on conveyances and instruments of every description admitted to record:

ACKNOWLEDGMENT FOR INDIVIDUAL

The State of }
..... County }

I (name and style of officer) hereby certify that whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand this day of, A. D. 19....

A. B. Judge, etc. (or as the case may be)

ACKNOWLEDGMENT FOR CORPORATION

The State of }
..... County }

I,, a in and for said County in said State, hereby certify that whose name as of the, a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the day of, 19....

.....
(Style of Officer)

ACKNOWLEDGMENT FOR AN OFFICIAL OR OTHER PERSON IN REPRESENTATIVE CAPACITY

The State of..... }
..... County }

I,, a, in and for said County in said State, hereby certify that, whose name as (here state representative capacity) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the

contents of the conveyance, he, in his capacity as such, executed the same voluntarily on the day the same bears date.
Given under my hand this the day of, 19

.....
(Style of Officer)

ACKNOWLEDGMENT FOR CORPORATION, IN REPRESENTATIVE CAPACITY

The State of }.
..... County }

I,, a in and for said County, in said State, hereby certify that whose name asof, a corporation as of the estate of (or as the case may be) is signed to the foregoing, and who is known to me, acknowledged before me on this day, that being informed of the contents of said, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as as aforesaid.

Given under my hand this the day of, 19....

.....
(Style of Officer)
(Code 1852, § 1279; Code 1867, § 1548; Code 1876, § 2158; Code 1886, § 1802; Code 1896, § 996; Code 1907, § 3361; Code 1923, § 6845; Code 1940, T. 47, § 30; Acts 1951, No. 85, p. 301.)

§ 35-4-30. Form of probate of conveyance.
The form of a probate of a conveyance or other instrument is as follows:

The State of }.
..... County }

I, (name and style of the officer), hereby certify that, a subscribing witness to the foregoing conveyance, known to me, appeared before me on this day, and being sworn, stated that, the grantor, voluntarily executed the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor, and of the other witness, and that such other witness subscribed his name as a witness in his presence.

Given under my hand, this day of, A. D.

A. B., Judge, etc. (or as the case may be).
(Code 1852, § 1280; Code 1867, § 1549; Code 1876, § 2159; Code 1886, § 1803; Code 1896, § 997; Code 1907, § 3362; Code 1923, § 6846; Code 1940, T. 47, § 31.)