

HOUSE BILL NO. HB0149

Notaries.

Sponsored by: Representative(s) Gingery, Brown, Buchanan,
Lubnau and Petersen and Senator(s) Massie

A BILL

for

1 AN ACT relating to notaries, notarial officers and notarial
2 acts; amending the Wyoming Uniform Law on Notarial Acts;
3 adopting provisions of the Model Notary Act; amending
4 notary related statutes; and providing for an effective
5 date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 34-26-201 through 34-26-210,
10 34-26-301 through 34-26-308, 34-26-401 through 34-26-404,
11 34-26-501 through 34-26-503, 34-26-601 through 34-26-605
12 and 34-26-701 through 34-26-704 are created to read:

13

14

ARTICLE 2

15

COMMISSIONING OF NOTARIAL OFFICERS

16

1 **34-26-201. Notarial officers affected by this act;**
2 **definition.**

3

4 The existing bond, seal, length of commission term and
5 liability of current notary publics commissioned before
6 July 1, 2011 are not invalidated, modified or terminated by
7 this act, but all notarial officers shall comply with this
8 act in performing notarial acts and in applying for new
9 commissions after July 1, 2011.

10

11 **34-26-202. Qualifications of commissioned notarial**
12 **officers.**

13

14 (a) Except as provided in subsection (c) of this
15 section, the secretary of state shall issue a notarial
16 officer commission to any qualified person who submits an
17 application in accordance with this act.

18

19 (b) To be qualified for a notarial officer commission
20 a person shall:

21

22 (i) Be at least eighteen (18) years of age;

23

1 (ii) Reside or have a regular place of work or
2 business in Wyoming; and

3

4 (iii) Pass a written examination promulgated and
5 administered by the secretary of state.

6

7 (c) The secretary of state may deny an application
8 based on:

9

10 (i) Submission of an official application
11 containing material misstatement or omission of fact;

12

13 (ii) The applicant's conviction or plea of
14 admission or nolo contendere for any crime involving
15 dishonesty or moral turpitude;

16

17 (iii) A finding or admission of liability
18 against the applicant in a civil lawsuit based on the
19 applicant's deceit;

20

21 (iv) Revocation, suspension, restriction or
22 denial of a notarial officer commission or professional
23 license by this or any other state or nation or a finding
24 that revocation would have been appropriate under W.S.

1 34-26-802(d), and in no case may a commission be issued to
2 the applicant within five (5) years after such action; or

3

4 (v) A finding that the applicant has engaged in
5 official misconduct as defined in W.S. 34-26-101(b)(xvi),
6 whether or not disciplinary action resulted.

7

8 (d) Denial of an application may be appealed by
9 filing in proper form with the secretary of state within
10 thirty (30) days after denial the form adopted for such
11 purposes by the secretary of state. The appeal shall be
12 handled pursuant to rules adopted by the secretary of state
13 and consistent with the Wyoming Administrative Procedure
14 Act.

15

16 **34-26-203. Jurisdiction and term.**

17

18 A person commissioned as a notarial officer may perform
19 notarial acts in any part of Wyoming for a term of four (4)
20 years, unless the commission is earlier revoked or
21 resigned.

22

23 **34-26-204. Bond.**

24

1 (a) A notarial officer commission shall not be issued
2 until an oath of office and a five thousand dollar (\$5,000)
3 bond have been filed with the secretary of state. The bond
4 shall be executed by a licensed surety, for a term of four
5 (4) years commencing on the commission's effective date and
6 terminating on its expiration date, with payment of bond
7 funds to any person conditioned upon the notarial officer's
8 official misconduct, as defined by W.S. 34-26-101(b)(xvi).

9

10 (b) The surety for a notarial officer bond shall
11 report all claims against the bond to the secretary of
12 state.

13

14 (c) If a notarial officer bond has been exhausted by
15 claims paid out by the surety, the secretary of state shall
16 suspend the notarial officer's commission until:

17

18 (i) A new bond is obtained by the notarial
19 officer; and

20

21 (ii) The notarial officer's fitness to serve the
22 remainder of the commission term is determined by the
23 secretary of state.

24

1 **34-26-205. Commissioning documents.**

2

3 Upon issuing a notarial officer commission, the secretary
4 of state shall provide to the notarial officer a commission
5 document stating the commission serial number, starting and
6 ending dates and authorization to purchase a commissioned
7 notarial officer seal.

8

9 **34-26-206. Recommissioning.**

10

11 A current or former commissioned notarial officer applying
12 for a new notarial officer commission shall submit a new
13 completed application and comply anew with all of the
14 provisions of this act.

15

16 **34-26-207. Application for notarial officer**
17 **commission.**

18

19 (a) Every application for a notarial officer
20 commission shall be made to the secretary of state and
21 include:

22

23 (i) A statement of the applicant's personal
24 qualifications, as described in W.S. 34-26-208;

1

2 (ii) Evidence of successful passage of the
3 written exam;

4

5 (iii) A notarized declaration of the applicant,
6 as described in W.S. 34-26-209;

7

8 (iv) Such other information as the secretary of
9 state may deem appropriate; and

10

11 (v) An application fee, as specified in W.S.
12 9-1-305(a)(iii).

13

14 **34-26-208. Statement of personal qualifications.**

15

16 (a) The application for a notarial officer commission
17 shall state or include, at least:

18

19 (i) The applicant's date of birth;

20

21 (ii) The applicant's residence address and
22 telephone number;

23

1 (iii) The applicant's business address and
2 telephone number, the business mailing address, if
3 different, and the name of the applicant's employer, if
4 any;

5
6 (iv) All issuances, denials, revocations,
7 suspensions, restrictions and resignations of any notarial
8 officer commission, professional license or public office
9 involving the applicant in this or any other state or
10 nation;

11
12 (v) All criminal convictions of the applicant
13 which are not traffic related, including any pleas of
14 admission or nolo contendere, in this or any other state or
15 nation;

16
17 (vi) All claims made, pending or disposed
18 against the applicant or any notarial officer bond ever
19 held by the applicant, and all civil findings or admissions
20 of fault or liability regarding the applicant's activities
21 as a notarial officer, in this or any other state or
22 nation.

23

24 **34-26-209. Notarized declaration.**

1

2 Every applicant for a notarial officer commission shall
3 sign the following declaration in the presence of a
4 notarial officer of this state: Declaration of Applicant:
5 I, (name of applicant), solemnly swear or affirm under
6 penalty of perjury that the personal information in this
7 application is true, complete and correct; that I
8 understand the official duties and responsibilities of a
9 commissioned notarial officer in Wyoming; and that I will
10 perform, to the best of my ability, all notarial acts in
11 accordance with the law.

12 (signature of applicant)

13

14 **34-26-210. Confidentiality.**

15

16 Information required by W.S. 34-26-208(a)(v) shall be used
17 by the secretary of state and designated employees only for
18 the purpose of performing official duties under this act
19 and shall not be disclosed to any person other than a
20 government agent acting in an official capacity and duly
21 authorized to obtain such information, a person authorized
22 by court order, or to the applicant or the applicant's duly
23 authorized agent.

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ARTICLE 3

POWERS OF NOTARIAL OFFICERS

34-26-301. Powers and prohibitions.

(a) A notarial officer is empowered to perform the acts described in W.S. 34-26-101(b)(iii).

(b) A notarial officer, shall not perform a notarial act if the principal:

(i) Is not in the notarial officer's presence at the time of notarization;

(ii) Is not personally known to the notarial officer or identified by the notarial officer through satisfactory evidence;

(iii) Shows a demeanor which causes the notarial officer to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act; or

1 (iv) In the notarial officer's judgment is not
2 acting of his own free will.

3

4 (c) A notarial officer may certify the affixation of
5 a signature by mark on a document presented for
6 notarization if:

7

8 (i) The mark is affixed in the presence of the
9 notarial officer and two (2) witnesses unaffected by the
10 document;

11

12 (ii) Both witnesses sign their own names beside
13 the mark;

14

15 (iii) The notarial officer writes below the
16 mark: "Mark affixed by (name of signer by mark) in presence
17 of (names and addresses of witnesses) and undersigned
18 notarial officer under W.S. 34-26-301(c)"; and

19

20 (iv) The notarial officer notarizes the
21 signature by mark through an acknowledgment, jurat or
22 signature witnessing.

23

1 (d) A notarial officer may sign the name of a person
2 physically unable to sign or make a mark on a document
3 presented for notarization if:

4
5 (i) The person directs the notarial officer to
6 do so in the presence of two (2) witnesses unaffected by
7 the document;

8
9 (ii) The notarial officer signs the person's
10 name in the presence of the person and the witnesses;

11
12 (iii) Both witnesses sign their own names beside
13 the signature;

14
15 (iv) The notarial officer writes below the
16 signature: "Signature affixed by notarial officer in the
17 presence of (names and addresses of person and two (2)
18 witnesses) under W.S. 34-26-301(d)"; and

19
20 (v) The notarial officer notarizes the signature
21 through an acknowledgment, jurat or signature witnessing.

22
23 (e) It shall be lawful for any notarial officer who
24 is a stockholder, director, officer or employee of a bank

1 or other corporation to take the acknowledgment of any
2 party to any written instrument executed to or by said
3 corporation, or to administer an oath to any other
4 stockholder, director, officer, employee or agent of such
5 corporation, or to protest for nonacceptance, or
6 nonpayment, bills of exchange, drafts, checks, notes and
7 other negotiable instruments which may be owned or held for
8 collection by any such bank or other corporation.

9

10 **34-26-302. Disqualifications.**

11

12 (a) A notarial officer is disqualified from
13 performing a notarial act if the notarial officer:

14

15 (i) Is a party to or named in the document that
16 is to be notarized;

17

18 (ii) Will receive as a direct or indirect result
19 any commission, fee, advantage, right, title, interest,
20 cash, property or other consideration exceeding in value
21 the fees specified in W.S. 34-26-402;

22

1 (iii) Is a spouse, ancestor, descendant or
2 sibling of the principal, including in-law, step or half
3 relative; or

4
5 (iv) Is an attorney who has prepared, explained
6 or recommended to the principal the document that is to be
7 notarized.

8
9 (b) Notwithstanding paragraph (a)(ii) of this
10 section, a notarial officer may collect a fee for an
11 assignment as a signing agent if payment of that fee is not
12 contingent upon the signing of any document.

13

14 **34-26-303. Refusal to notarize.**

15

16 (a) Unless required by W.S. 34-26-301(b)(iii) or
17 (iv), a notarial officer shall not refuse to perform a
18 notarial act based on the principal's status as a nonclient
19 or noncustomer of the notarial officer or the officer's
20 employer.

21

22 (b) A notarial officer shall perform any notarial act
23 described in W.S. 34-26-101(b)(iii) for any person

1 requesting such an act who tenders the appropriate fee,
2 unless:

3

4 (i) The notarial officer knows or has good
5 reason to believe that the notarial act or the associated
6 transaction is unlawful;

7

8 (ii) The act is prohibited under W.S.
9 34-26-301(b); or

10

11 (iii) The number of notarial acts requested
12 practicably precludes completion of all acts at once, in
13 which case the notarial officer shall arrange for later
14 completion of the remaining acts.

15

16 (c) A notarial officer may, but is not required to,
17 perform a notarial act outside the notarial officer's
18 regular workplace or business hours.

19

20 **34-26-304. Avoidance of influence.**

21

22 (a) While acting as a notarial officer, a notarial
23 officer shall not influence a person either to enter into
24 or avoid a transaction involving a notarial act by the

1 notarial officer, except that the notarial officer may
2 advise against a transaction if W.S. 34-26-301(b) applies.

3

4 (b) In his capacity as a notarial officer, a notarial
5 officer has neither the duty nor the authority to
6 investigate, ascertain or attest the lawfulness, propriety,
7 accuracy or truthfulness of a document or transaction
8 involving a notarial act.

9

10 **34-26-305. False certificate.**

11

12 (a) A notarial officer shall not execute a
13 certificate containing information known or believed by the
14 notarial officer to be false.

15

16 (b) A notarial officer shall not affix an official
17 signature or seal on a notarial certificate that is
18 incomplete.

19

20 (c) A notarial officer shall not provide or send a
21 signed or sealed notarial certificate to another person
22 with the understanding that it will be completed or
23 attached to a document outside of the notarial officer's
24 presence.

1

2

34-26-306. Improper documents.

3

4

(a) A notarial officer shall not notarize a
signature:

6

7

(i) On a blank or incomplete document; or

8

9

(ii) On a document without notarial certificate
wording.

10

11

12

(b) A notarial officer shall neither certify nor
authenticate a photograph.

13

14

15

34-26-307. Intent to deceive.

16

17

A notarial officer shall not perform any official action
with the intent to deceive or defraud.

18

19

20

34-26-308. Testimonials.

21

22

A notarial officer shall not use the official notarial
officer title or seal to endorse, promote, denounce or

23

1 oppose any product, service, contest, candidate or other
2 offering.

3

4

ARTICLE 4

5

NOTARIAL OFFICER FEES

6

7

34-26-401. Imposition and waiver of fees.

8

9 For performing a notarial act, a notarial officer may
10 charge the maximum fee specified in W.S. 34-26-402, charge
11 less than the maximum fee or waive the fee.

12

13

34-26-402. Fees for notarial acts.

14

15 (a) The maximum fees that may be charged by a
16 notarial officer for notarial acts are:

17

18 (i) For taking an acknowledgment, two dollars
19 (\$2.00) per signature;

20

21 (ii) For administering an oath or affirmation
22 without a signature, two dollars (\$2.00) per person;

23

1 (iii) For jurats, two dollars (\$2.00) per
2 signature;

3

4 (iv) For witnessing or attesting a signature,
5 two dollars (\$2.00) per signature;

6

7 (v) For certifying or attesting copies, two
8 dollars (\$2.00) per page certified;

9

10 (vi) For taking a verification upon oath or
11 affirmation, two dollars (\$2.00) per certificate;

12

13 (vii) For noting a protest of negotiable
14 instruments, two dollars (\$2.00) per protest.

15

16 (b) A notarial officer may charge a travel fee when
17 traveling to perform a notarial act if:

18

19 (i) The notarial officer and the person
20 requesting the notarial act agree upon the travel fee in
21 advance of the travel; and

22

23 (ii) The notarial officer explains to the person
24 requesting the notarial act that the travel fee is both

1 separate from the notarial fee, if any, and neither
2 specified nor mandated by law.

3

4 **34-26-403. Payment prior to act.**

5

6 (a) A notarial officer may require payment of any
7 fees specified in W.S. 34-26-402 prior to performance of a
8 notarial act.

9

10 (b) Any fees paid to a notarial officer prior to
11 performance of a notarial act are nonrefundable if:

12

13 (i) The act was completed; or

14

15 (ii) In the case of travel fees paid in
16 compliance with W.S. 34-26-402(b), the act was not
17 completed for reasons stated in W.S. 34-26-303(b)(i) or
18 (ii) after the notarial officer had traveled to meet the
19 principal.

20

21 **34-26-404. Fees of employee notarial officer.**

22

1 (a) An employer may prohibit an employee who is a
 2 notarial officer from charging for notarial acts performed
 3 as part of the employee's employment.

4

5 (b) A private employer shall not require an employee
 6 who is a notarial officer to surrender or share fees
 7 charged for any notarial acts.

8

9 (c) A governmental employer who has absorbed an
 10 employee's costs in becoming or operating as a notarial
 11 officer shall require any fees collected for notarial acts
 12 performed as part of the employee's employment either to be
 13 waived or surrendered to the employer to support public
 14 programs.

15

ARTICLE 5

16

SIGNATURE AND SEAL OF NOTARIAL OFFICERS

17

18

34-26-501. Official signature.

19

20

21 (a) In notarizing a paper document, a notarial
 22 officer shall:

23

1 (i) Sign by hand on the notarial certificate
2 their name and, if a commissioned notarial officer, exactly
3 and only the name indicated on the notarial officer's
4 commission;

5

6 (ii) Not sign using a facsimile stamp or an
7 electronic or other printing method; and

8

9 (iii) Affix the official signature only at the
10 time the notarial act is performed.

11

12 **34-26-502. Official seal.**

13

14 (a) A commissioned notarial officer shall keep an
15 official seal that is the exclusive property of the
16 notarial officer. The seal shall not be possessed or used
17 by any other person, nor surrendered to an employer upon
18 termination of employment.

19

20 (b) A noncommissioned notarial officer also may
21 maintain and use an official seal, but is not required to
22 maintain or use such seal. If a noncommissioned notarial
23 officer chooses to use such seal, he shall comply with the

1 provisions of this section except that commission
2 information need not be included on the seal.

3

4 (c) An image of an official seal shall be affixed by
5 the commissioned notarial officer on every paper document
6 notarized.

7

8 (d) An image of the seal shall be affixed only at the
9 time the notarial act is performed.

10

11 (e) When not in use, the seal shall be kept secure
12 and accessible only to the notarial officer.

13

14 (f) Within ten (10) days after the seal of any
15 notarial officer is stolen, lost, damaged or otherwise
16 rendered incapable of affixing a legible image, the
17 notarial officer, after informing the appropriate law
18 enforcement agency in the case of theft or vandalism, shall
19 notify the secretary of state by any means providing a
20 tangible receipt or acknowledgment, including certified
21 mail and electronic transmission, and also provide a copy
22 or number of any pertinent police report. Upon receipt of
23 such notice the secretary of state shall issue to the

1 notarial officer a new certificate of authorization to
2 purchase a notarial officer seal.

3

4 (g) As soon as reasonably practicable after
5 resignation, revocation or expiration of a notarial officer
6 commission, death of the notarial officer or other
7 circumstance rendering a notarial officer unqualified to
8 perform notarial acts, the notarial officer's seal shall be
9 destroyed or defaced so that it may not be misused.

10

11 **34-26-503. Seal image.**

12

13 (a) A notarial officer's official seal shall be
14 affixed in a sharp, legible, permanent and photographically
15 reproducible manner near a notarial officer's official
16 signature on the notarial certificate of a paper document,
17 and shall include the following elements:

18

19 (i) The notarial officer's name exactly as
20 indicated on any commission;

21

22 (ii) The serial number of a commissioned
23 notarial officer's commission;

24

1 (iii) The words "notary public" or "notarial
2 officer" and "State of Wyoming" and, if applicable, "my
3 commission expires (commission expiration date)"; and

4

5 (iv) A border in a rectangular shape no larger
6 than two (2) inches by one (1) inch, surrounding the
7 required words.

8

9 (b) Illegible information within a seal impression
10 may be typed or printed legibly by the notarial officer
11 adjacent to but not within the impression.

12

13 (c) An embossed seal impression that is not
14 photographically reproducible may be used in addition to
15 but not in lieu of the seal described in subsection (a) of
16 this section.

17

18

ARTICLE 6

19

CHANGES OF STATUS

20

34-26-601. Change of address.

22

23 (a) Within ten (10) days after the change of a
24 commissioned notarial officer's residence, business or

1 mailing address, the notarial officer shall send to the
2 secretary of state by any means providing a tangible
3 receipt or acknowledgment, including certified mail and
4 electronic transmission, a signed notice of the change,
5 giving both old and new addresses.

6

7 (b) If the business address is changed, the
8 commissioned notarial officer shall not perform a notarial
9 act until:

10

11 (i) The notice described in subsection (a) of
12 this section has been delivered or transmitted;

13

14 (ii) A confirmation of the notarial officer's
15 name or address change has been received from the secretary
16 of state; and

17

18 (iii) The surety for the commissioned notarial
19 officer's bond has been informed in writing.

20

21 **34-26-602. Change of name.**

22

23 (a) Within ten (10) days after the change of a
24 commissioned notarial officer's name by court order or

1 marriage, the commissioned notarial officer shall send to
2 the secretary of state by any means providing a tangible
3 receipt or acknowledgment, including certified mail and
4 electronic transmission, a signed notice of the change,
5 giving both former and new names, with a copy of any
6 official authorization for such change.

7

8 (b) A commissioned notarial officer with a new name
9 shall continue to use the former name in performing
10 notarial acts until the following steps have been
11 completed, at which point the commissioned notarial officer
12 shall use the new name:

13

14 (i) The notice described in subsection (a) of
15 this section has been delivered or transmitted;

16

17 (ii) A confirmation of the notarial officer's
18 name or address change has been received from the secretary
19 of state;

20

21 (iii) A new seal bearing the new name exactly as
22 in the confirmation has been obtained; and

23

1 (iv) The surety for the commissioned notarial
2 officer's bond has been informed in writing.

3

4 **34-26-603. Resignation.**

5

6 (a) A commissioned notarial officer who resigns his
7 commission shall send to the secretary of state by any
8 means providing a tangible receipt or acknowledgment,
9 including certified mail and electronic transmission, a
10 signed notice indicating the effective date of resignation
11 and shall not perform any notarial act after that date.

12

13 (b) Commissioned notarial officers who cease to
14 reside in or to maintain a regular place of work or
15 business in this state, or who become permanently unable to
16 perform their notarial duties, shall resign their
17 commissions.

18

19 **34-26-604. Disposition of seal.**

20

21 When a notarial officer commission expires or is resigned
22 or revoked, or upon the occurrence of any other
23 circumstance rendering the notarial officer unqualified to
24 perform notarial acts, the notarial officer shall as soon

1 as reasonably practicable, destroy or deface all notarial
2 officer seals so that they may not be misused.

3

4 **34-26-605. Death of notary.**

5

6 (a) If a commissioned notarial officer dies during
7 the term of commission or before fulfilling the obligations
8 stipulated in W.S. 34-26-604, the notarial officer's
9 personal representative shall:

10

11 (i) Notify the secretary of state of the death
12 in writing; and

13

14 (ii) As soon as reasonably practicable, destroy
15 or deface all notarial officer seals so that they may not
16 be misused.

17

18 **ARTICLE 7**

19 **LIABILITY, SANCTIONS AND REMEDIES FOR IMPROPER ACTS**

20

21 **34-26-701. Liability of commissioned notarial**
22 **officer, surety and employer.**

23

1 (a) A commissioned notarial officer is liable to any
2 person for all damages proximately caused that person by
3 the notarial officer's negligence, intentional violation of
4 law or official misconduct in relation to a notarial act.

5
6 (b) A surety for a notarial officer's bond is liable
7 to any person for damages proximately caused that person by
8 the notarial officer's negligence, intentional violation of
9 law or official misconduct in relation to a notarial act
10 during the bond term, but this liability shall not exceed
11 the dollar amount of the bond or of any remaining bond
12 funds that have not been disbursed to other claimants.
13 Regardless of the number of claimants against the bond or
14 the number of notarial acts cited in the claims, a surety's
15 aggregate liability shall not exceed the dollar amount of
16 the bond for acts of the notarial officer.

17
18 **34-26-702. Revocation.**

19
20 (a) The secretary of state may revoke a notarial
21 officer commission for any ground on which an application
22 for a commission may be denied under W.S. 34-26-202(c).

23

1 (b) The secretary of state shall revoke the
2 commission of any notarial officer who fails:

3

4 (i) To maintain a residence or a regular place
5 of work or business in this state; and

6

7 (ii) To maintain status as a legal resident of
8 the United States.

9

10 (c) Prior to revocation of a notarial officer
11 commission, the secretary of state shall inform the
12 notarial officer of the basis for the revocation and that
13 the revocation takes effect on a particular date unless a
14 proper and timely appeal is filed pursuant to rules adopted
15 by the secretary of state and consistent with the Wyoming
16 Administrative Procedure Act.

17

18 (d) Resignation or expiration of a notarial officer
19 commission does not terminate or preclude an investigation
20 into the notarial officer's conduct by the secretary of
21 state, who may pursue the investigation to a conclusion,
22 whereupon it shall be made a matter of public record
23 whether or not the finding would have been grounds for
24 revocation.

1

2 **34-26-703. Other remedial actions for misconduct.**

3

4 (a) The secretary of state may deliver a written
5 official warning to cease misconduct to any notarial
6 officer whose actions are judged to be official misconduct
7 under W.S. 34-26-101(b) (xvi).

8

9 (b) The secretary of state may seek a court
10 injunction to prevent a person from violating any provision
11 of this act.

12

13 **34-26-704. Publication of sanctions and remedial**
14 **actions.**

15

16 The secretary of state shall regularly publish a list of
17 persons whose notarial officer commissions have been
18 revoked by the secretary of state or whose actions as a
19 notarial officer were the subject of a court injunction or
20 official warning to cease misconduct.

21

22 **Section 2.** W.S. 1-2-102(a) (vii) and (b), 2-11-105(a),
23 6-5-114, 9-1-305(a) (iii), 29-7-202(a), 34-2-133(a),
24 34-5-101, 34-5-104, 34-26-101(b) (i), (iii), (iv), by

1 creating new paragraphs (vi) through (xxii) and by amending
2 and renumbering (vi) as (xxiii), 34-26-102(c) and (d),
3 34-26-103(a)(i) and by creating a new subsection (d),
4 34-26-104(a)(i), 34-26-106(a)(i), 34-26-107(a),
5 34-1-3-505(b) and 41-7-804(a)(i) are amended to read:

6

7 **1-2-102. Officers authorized to administer.**

8

9 (a) The following officers are authorized to
10 administer oaths:

11

12 (vii) ~~Notaries public~~ Notarial officers;

13

14 (b) Officers listed in this section are authorized to
15 administer oaths, but are not authorized to perform other
16 notarial acts as defined in W.S. 34-26-101(b)(iii), unless
17 specified otherwise in W.S. ~~32-1-105(c) or~~ 34-26-103(a).

18

19 **2-11-105. Procedure when foreign law does not require**
20 **probate; filing, recording and effect.**

21

22 (a) When a duly authenticated copy of a will from any
23 state or country where probate is not required by the laws
24 of the state or country, with a duly authenticated

1 certificate of the legal custodian of the original will
2 that the same is a true copy and that the will has become
3 operative by the laws of the state or country, and when a
4 copy of a notarial will in possession of a ~~notary~~notarial
5 officer in a foreign state or country entitled to the
6 custody thereof (the laws of which state or country require
7 that the will remain in the custody of the ~~notary~~notarial
8 officer), duly authenticated by the ~~notary~~notarial
9 officer, is presented by the executor or other persons
10 interested to the proper court in this state, the court
11 shall take the proofs as may be appropriate.

12

13 **6-5-114. Notarial officers; issuance of certificate**
14 **without proper acknowledgment; penalties.**

15

16 A ~~notary public~~notarial officer commits a misdemeanor
17 punishable by imprisonment for not more than six (6)
18 months, a fine of not more than seven hundred fifty dollars
19 (\$750.00), or both, if he signs and affixes his seal to a
20 certificate of acknowledgment when the party executing the
21 instrument has not first acknowledged the execution of the
22 instrument before the ~~notary public~~notarial officer, if by
23 law the instrument is required to be recorded or filed and

1 cannot be filed without a certificate of acknowledgment
2 signed and sealed by a ~~notary public~~ notarial officer.

3

4 **9-1-305. Fees; amounts; collection; exceptions.**

5

6 (a) The secretary of state shall collect the
7 following fees in advance for:

8

9 (iii) Issuing a notarial officer commission, ~~to~~
10 ~~notary public,~~ thirty dollars (\$30.00);

11

12 **29-7-202. Notice of lien to be filed; time and place;**
13 **form; filing by county clerk; release; renewal.**

14

15 (a) A notice of a breeder's lien shall within ninety
16 (90) days after the date of the service be filed in the
17 office of the secretary of state. The notice shall be in
18 the following format:

19

20 Notice of Breeder's Lien.

21

22 The State of Wyoming)

23) ss.

24 County of)

1

2 I,, being first duly sworn, upon my oath depose and
3 say I am the lawful owner (or duly authorized agent of
4 the lawful owner) of (description of male animal).

5

6 On (or between) the day of, A.D. (year) and the
7 day of, (year), the services of the male animal
8 were had upon the following described female animals:

9

10 The above services were rendered at the request of
11 (for and on behalf of), the lawful owner of the
12 female animals.

13

14 The fee agreed upon for these services was dollars.

15

16 There is now due to from for these services, the
17 sum of dollars.

18

19 Ninety (90) days have not elapsed since the date of the
20 services, and claim a breeder's lien on the property
21 for this amount.

22

23 Subscribed in my presence and sworn to before me this
24 day of, A.D. (year).

1

2

3

4 ~~Notary Public~~ Notarial Officer.

5

6 **34-2-133. Tax deeds; possession and affidavits of**
7 **possession.**

8

9 (a) Possession by the grantee for a continuous period
10 of not less than six (6) months at any time after one (1)
11 year and six (6) months have elapsed since the date of
12 recording the tax deed extinguishes forever all the claims,
13 right, title and interest, including the right to
14 possession, of the former owner, and vests in the grantee
15 any title conveyed or purportedly conveyed by the tax deed.
16 Proof of possession by the grantee and the record of the
17 tax deed constitutes conclusive evidence of the legality
18 and effectiveness of the deed and any proceedings upon
19 which the deed is based, and of the title of the grantee.
20 As a means of proving possession and preserving evidence of
21 possession under a tax deed, the then owner or holder of
22 the title conveyed or purportedly conveyed by the tax deed
23 may, at any time after two (2) years from the date of
24 recording of the tax deed, file for record in the office of

1 the county clerk and ex officio register of deeds in which
2 the real estate is located an affidavit substantially in
3 the following form:

4 AFFIDAVIT OF POSSESSION AND CLAIM UNDER TAX DEED

5

6 State of)

7) ss

8 County)

9

10 I,, (name) residing at (address), being first
11 duly sworn, depose and say that on (date) a tax deed
12 was issued to (grantee) for the following described
13 real estate: that said tax deed was filed for
14 record in the office of the county clerk and ex officio
15 register of deeds for county,, on (date),
16 and appears in the records of that office in County as
17 recorded in book page of the records; that I
18 am now in possession of such real estate and claim title to
19 the same by virtue of such tax deed; that I have been in
20 possession of such real estate for a continuous period of
21 not less than six (6) months immediately preceding the date
22 of this affidavit; and that the facts concerning the
23 possession of such real estate from the date of recording

1 the tax deed to the date of this notice are, insofar as
2 known to me, as follows:

3

4

5 Subscribed and sworn to before me this day of
6 , (year).

7

8

9

10 ~~Notary Public~~ Notarial Officer in and for

11

12 County

13 (state)

14

15

16 **34-5-101. When executed out of state; exceptions.**

17

18 All deeds and conveyances of real estate given and recorded
19 in the state of Wyoming prior to January 1, 1925, the
20 execution of which shall have been acknowledged before a
21 ~~notary public~~ notarial officer out of this state, where the
22 certificate of official character attached to such deeds or
23 other conveyance fails to state that such deed or
24 conveyance was executed and acknowledged according to the

1 laws of the state or territory in which the same was
2 executed, shall be deemed as valid and binding as if such
3 certificate had contained the statement aforesaid, and
4 shall be so construed by the courts, and the record thereof
5 shall have the same force and effect as if such certificate
6 had contained said statement; provided, that such record
7 shall in no wise affect the right or title of any person
8 acquired in good faith and for a valuable consideration
9 before the said January 1, 1925; and provided, further,
10 that this section shall not be construed to affect any
11 judgment or decree rendered by any court of the state
12 before that time.

13

14 **34-5-104. Certificate of acknowledgment; incomplete.**

15

16 Any conveyance of real estate made ten (10) years or more
17 prior to January 1st, A.D. 1935, purporting to be
18 acknowledged before any justice of the peace, within or
19 without the state of Wyoming, where such justice of the
20 peace did not state in his certificate of acknowledgment
21 the date of expiration of his office, or where no
22 certificate, or a defective certificate is attached to such
23 deed by the county clerk or clerk of court of the county of
24 such justice of the peace as is required by law in case

1 such acknowledgment is taken before a justice of the peace
2 outside of the state of Wyoming; and any conveyance of real
3 estate made ten (10) years or more prior to January 1st,
4 A.D. 1935, purporting to be acknowledged before any ~~notary~~
5 ~~public~~ notarial officer, where such ~~notary~~ ~~public~~ notarial
6 officer did not attach his seal to such certificate of
7 acknowledgment, or did not state therein the expiration of
8 the time of his commission; and any conveyance of real
9 estate made ten (10) years or more prior to the 1st day of
10 January, A.D. 1935, where such conveyance does not purport
11 to be properly witnessed; and any conveyance of real estate
12 made ten (10) years or more, prior to the first day of
13 January, A.D. 1935, purporting to be executed by any
14 corporation, where there is any defect or irregularity in
15 the execution or acknowledgment thereof, shall, if the same
16 has been heretofore recorded ten (10) years or more prior
17 to January 1st, 1935, in the office of the county clerk of
18 the county where the real estate therein conveyed is
19 situate, be deemed as valid and as effective and binding as
20 though the defects and irregularities therein, herein
21 mentioned, did not exist and as though in these respects
22 the same had been executed in full accordance with the laws
23 of this state, and the record, or the certified copy
24 thereof, shall be admitted in evidence in all actions or

1 proceedings with the same force and effect as though the
2 defects and irregularities therein, herein mentioned, did
3 not exist, and as though in these respects the same had
4 been executed in full accordance with the laws of this
5 state.

6

7 **34-26-101. Short title; definitions.**

8

9 (b) As used in this act:

10

11 (i) "Acknowledgment" means ~~a declaration by a~~
12 ~~person that the person has freely and voluntarily executed~~
13 ~~an instrument for the purposes stated therein and, if the~~
14 ~~instrument is executed in a representative capacity, that~~
15 ~~the person signed the instrument with proper authority and~~
16 ~~executed it as the act of the person or entity represented~~
17 ~~and identified therein and that the person acknowledges~~
18 ~~that the instrument was executed and acknowledged freely~~
19 ~~and voluntarily;~~ an act in which an individual at a single
20 time and place:

21

22 (A) Appears in person before the notarial
23 officer and presents a document;

24

1 (B) Is personally known to the notarial
2 officer or identified by the notarial officer through
3 satisfactory evidence; and

4
5 (C) Indicates to the notarial officer that
6 the signature on the document was voluntarily affixed by
7 the individual for the purposes stated within the document
8 and, if applicable, that the individual had due authority
9 to sign in a particular representative capacity.

10
11 (iii) "Notarial act," ~~means any act that a~~
12 ~~notarial officer of this state is authorized to perform,~~
13 ~~and includes taking an acknowledgement, administering an~~
14 ~~oath or affirmation, taking a verification upon oath or~~
15 ~~affirmation, witnessing or attesting a signature,~~
16 ~~certifying or attesting a copy and noting a protest of a~~
17 ~~negotiable instrument;~~ "notarize" and "notarization" mean:

18
19 (A) Taking an acknowledgment;

20
21 (B) Administering an oath or affirmation;

22
23 (C) Taking a verification upon oath or
24 affirmation;

1

2

(D) Witnessing or attesting a signature;

3

4

(E) Certifying or attesting a copy;

5

6

(F) Noting a protest of a negotiable

7

instrument;

8

9

(G) Performing a jurat; and

10

11

(H) Performing other acts so authorized by

12

the laws of this state.

13

14

(iv) "Notarial officer" means ~~a notary public or~~

15

~~other officer~~ any person authorized to perform notarial

16

acts under W.S. 34-26-103;

17

18

(vi) "Affirmation" means a notarial act, or part

19

thereof, which is legally equivalent to an oath and in

20

which an individual at a single time and place:

21

22

(A) Appears in person before the notary;

23

1 (B) Is personally known to the notary or
2 identified by the notary through satisfactory evidence; and

3

4 (C) Makes a vow of truthfulness or fidelity
5 on penalty of perjury, based on personal honor and without
6 invoking a deity or using any form of the word "swear".

7

8 (vii) "Appears in person before the notarial
9 officer" means that the person and the notarial officer are
10 physically close enough to see, hear, communicate with and
11 give identification documents to each other;

12

13 (viii) "Commission" means both to empower to
14 perform notarial acts and the written evidence of authority
15 to perform those acts;

16

17 (ix) "Commissioned notarial officer" means a
18 person who has been issued a commission to perform notarial
19 acts by the secretary of state. A commissioned notarial
20 officer is a notary public;

21

22 (x) "Credible witness" means an honest, reliable
23 and impartial person who personally knows an individual
24 appearing before a notarial officer and takes an oath or

1 affirmation from the notarial officer to vouch for that
2 individual's identity;

3

4 (xi) "Jurat" means a notarial act in which an
5 individual at a single time and place:

6

7 (A) Appears in person before the notarial
8 officer and presents a document;

9

10 (B) Is personally known to the notarial
11 officer or identified by the notarial officer through
12 satisfactory evidence;

13

14 (C) Signs the document in the presence of
15 the notarial officer; and

16

17 (D) Takes an oath or affirmation from the
18 notarial officer vouching for the truthfulness or accuracy
19 of the signed document.

20

21 (xii) "Notarial certificate" and "certificate"
22 mean the part of, or attachment to, a notarized document
23 that is completed by the notarial officer, bears the
24 notarial officer's signature and seal, states the facts

1 attested by the notarial officer in a particular
2 notarization and may be in the form set forth in W.S.
3 34-26-108;

4
5 (xiii) "Notary public" and "notary" mean any
6 person commissioned under this act to be a notarial officer
7 and perform notarial acts;

8
9 (xiv) "Oath" means a notarial act, or part
10 thereof, which is legally equivalent to an affirmation and
11 in which an individual at a single time and place:

12
13 (A) Appears in person before the notarial
14 officer;

15
16 (B) Is personally known to the notarial
17 officer or identified by the notarial officer through
18 satisfactory evidence; and

19
20 (C) Makes a vow of truthfulness or fidelity
21 on penalty of perjury while invoking a deity or using any
22 form of the word "swear".

23
24 (xv) "Official misconduct" means:

1

2

3

4

5

6

7

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23

(A) A notarial officer's performance of any act prohibited, or failure to perform any act mandated, by this act or by any other law in connection with a notarial act by the notarial officer; or

(B) A notarial officer's performance of an official act in a manner found by the secretary of state or a court of competent jurisdiction to be negligent or against the public interest.

(xvi) "Personal knowledge of identity", "personally known to the notarial officer" and "personally knows" mean familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed;

(xvii) "Principal" means:

(A) A person whose signature is notarized;
or

1 (B) A person, other than a credible
2 witness, taking an oath or affirmation from the notarial
3 officer.

4
5 (xviii) "Regular place of work or business"
6 means a stationary office or workspace where one spends all
7 or some of one's working or business hours;

8
9 (xix) "Satisfactory evidence", when referring to
10 proof of identity, means identification of an individual
11 based on:

12
13 (A) The notarial officer's personal
14 knowledge of identity;

15
16 (B) At least one (1) current document
17 issued by a federal, state or tribal government agency
18 bearing the photographic image of the individual's face and
19 signature and a physical description of the individual,
20 though a properly stamped passport without a physical
21 description is acceptable; or

22
23 (C) The oath or affirmation of one (1)
24 credible witness unaffected by the document or transaction

1 who is personally known to the notarial officer and who
2 personally knows the individual, or of two (2) credible
3 witnesses unaffected by the document or transaction who
4 each personally knows the individual and shows to the
5 notarial officer documentary identification as described in
6 subparagraph (B) of this paragraph.

7
8 (xx) "Seal" means a device for affixing on a
9 document an image containing a notarial officer's name,
10 jurisdiction, commission expiration date and other
11 information related to the notarial officer's commission
12 and identity;

13
14 (xxi) "Verification of fact" means a notarial
15 act in which a notarial officer reviews public or vital
16 records to ascertain or confirm any of the following facts
17 regarding a person:

18
19 (A) Date of birth or death;

20
21 (B) Name of parent, offspring or sibling;

22
23 (C) Date of marriage or divorce; or

24

1 (D) Name of marital partner.

2

3 ~~(vi)~~ (xxii) "This act" means W.S. 34-26-101
4 through ~~34-26-109~~ 34-26-704.

5

6 **34-26-102. Notarial acts.**

7

8 (c) In witnessing or attesting a signature the
9 ~~notarial officer~~ person making the signature shall
10 ~~determine, either from personal knowledge or from~~
11 ~~satisfactory evidence, that the signature is that of the~~
12 ~~person appearing before the officer and named therein~~ be
13 personally known to the notarial officer or identified
14 through satisfactory evidence, shall appear in person
15 before the notarial officer and shall make the signature in
16 the presence of the notarial officer.

17

18 (d) In certifying or attesting a copy of a document
19 or other item, the notarial officer shall:

20

21 (i) Be present with the document or other item
22 which is neither a vital record, a public record nor
23 publicly recordable;

24

1 (ii) Copy or supervise the copying of the
2 document or other item using a photographic or electronic
3 copying process; and

4
5 (iii) Determine that the proffered copy is a
6 full, true and accurate transcription or reproduction of
7 that which was copied.

8
9 **34-26-103. Notarial acts in Wyoming.**

10
11 (a) A notarial act may be performed within this state
12 by the following persons:

13
14 (i) A ~~notary public of this state~~ person
15 commissioned as a notarial officer;

16
17 (d) All persons authorized to perform notarial acts
18 under subsection (a) of this section may perform such acts
19 without a commission except persons listed under paragraph
20 (a)(i) of this section.

21
22 **34-26-104. Notarial acts in other jurisdictions of**
23 **the United States.**

24

1 (a) A notarial act, including the acknowledgment of
2 any deed, mortgage or conveyance, has the same effect under
3 the law of this state as if performed by a notarial officer
4 of this state, if performed in another state, commonwealth,
5 territory, district or possession of the United States by
6 any of the following persons:

7

8 (i) A ~~notary public~~ notarial officer of that
9 jurisdiction;

10

11 **34-26-106. Foreign notarial acts.**

12

13 (a) A notarial act, including the acknowledgment of
14 any deed, mortgage or conveyance, has the same effect under
15 the law of this state as if performed by a notarial officer
16 of this state if performed within the jurisdiction of and
17 under the authority of a foreign nation or its constituent
18 units or a multi-national or international organization by
19 any of the following persons:

20

21 (i) A ~~notary public or notary~~ notarial officer;

22

23 **34-26-107. Certificate of notarial acts.**

24

1 (a) A notarial act shall be evidenced by a
2 certificate signed and dated by a notarial officer. The
3 certificate shall include identification of the
4 jurisdiction in which the notarial act is performed and the
5 title of the office of the notarial officer and may include
6 the official stamp or seal of the office. If the officer is
7 a ~~notary public~~ commissioned notarial officer, the
8 certificate shall also indicate the date of expiration, if
9 any, of the commission of office, but omission of that
10 information may subsequently be corrected. If the officer
11 is a commissioned officer on active duty in the military
12 service of the United States, it shall also include the
13 officer's rank.

14

15 **34.1-3-505. Evidence of dishonor.**

16

17 (b) A protest is a certificate of dishonor made by a
18 United States consul or vice consul, or a ~~notary public~~
19 notarial officer or other person authorized to administer
20 oaths by the law of the place where dishonor occurs. It
21 may be made upon information satisfactory to that person.
22 The protest must identify the instrument and certify either
23 that presentment has been made or, if not made, the reason
24 why it was not made, and that the instrument has been

1 dishonored by nonacceptance or nonpayment. The protest may
2 also certify that notice of dishonor has been given to some
3 or all parties.

4

5 **41-7-804. Creation; procedures generally.**

6

7 (a) The procedure for creating and incorporating a
8 district under the provisions of this act shall be in
9 accordance with the following method, to wit:

10

11 (i) A public irrigation district may be
12 organized under the provisions of this act by filing in the
13 office of the state engineer a petition in compliance with
14 the requirements hereinafter set forth, and the approval of
15 said petition by the state engineer of Wyoming as
16 hereinafter provided. Said petition shall be addressed to
17 said state engineer and state in substance that it is the
18 intent and purpose of the petitioners by said petition to
19 create a district under the provisions of this act, subject
20 to approval by said state engineer. Said petition must
21 contain: (A) the name of the proposed district. If the
22 proposed district is to engage in the business of owning or
23 operating irrigation works, such name shall include the
24 words "public irrigation district." If the proposed

1 district is also to engage in the business of acquiring,
2 manufacturing or selling or distributing electric power,
3 the name of the proposed district shall include the words
4 "public irrigation and power district"; (B) the object and
5 purpose of the system proposed to be constructed, together
6 with a general description of the nature, location and
7 method of operation of proposed irrigation works, and of
8 proposed power systems if owning and operating power plants
9 or systems is to be a part of the business of the proposed
10 district; (C) a description of the lands constituting the
11 proposed district and of the boundaries thereof; (D) the
12 location of the principal place of business of the proposed
13 district; (E) a statement that the proposed district shall
14 not have the power to levy taxes; (F) the names and
15 addresses of the members of the board of directors of the
16 proposed district (not less than five (5) nor more than
17 thirteen (13)) who shall serve until their successors are
18 elected and qualified as provided for in this act. In the
19 petition, the directors named shall be divided as nearly as
20 possible into three (3) equal groups, the members of the
21 first group to hold office until their successors, elected
22 at the first district election thereafter, shall have
23 qualified; the members of the second group to hold office
24 until their successors, elected at the second district

1 election thereafter, shall have qualified, and the members
 2 of the third group to hold office until their successors,
 3 elected at the third district election thereafter, shall
 4 have qualified. Thereafter all directors elected shall
 5 serve for a term of three (3) years and until their
 6 successors are elected and qualified. After the name of
 7 each director shall be stated to which of said three (3)
 8 groups he belongs. Said petition must be signed by twenty-
 9 five percent (25%) of the freeholders or entrymen of the
 10 area constituting said proposed district, or by their duly
 11 authorized representatives. On each petition, set opposite
 12 the signature of each petitioner, shall be stated his or
 13 her name and post-office address. To each sheet for
 14 petitioners' signatures shall be attached a full and
 15 correct copy of the petition. Every sheet of every such
 16 petition containing signatures shall have upon it and below
 17 the signatures an affidavit by the circulator in
 18 substantially the following form:

19 State of Wyoming)
 20) ss
 21 County of)

22

23 , being first duly sworn, deposes and says, that
 24 he is the circulator of the foregoing petition containing

1 signatures; that each person whose name appears on
 2 said petition sheet personally signed said petition in the
 3 presence of affiant; that he believes that each of said
 4 signers is a freeholder of land to be included within the
 5 proposed district residing at the address written opposite
 6 his or her name, and that affiant stated to every
 7 petitioner before he or she affixed his or her signature
 8 the legal effect and nature of said petition.

9

10

11 Circulator

12

13 Subscribed and sworn to before me this day of,
 14 (year).

15

16

17 ~~Notary Public~~ Notarial Officer;

18

19

20 **Section 3.** W.S. 18-3-402(a)(xvi)(D), 32-1-101 through
 21 32-1-113 and 34-26-102(h) are repealed.

1

2 **Section 4.** This act is effective July 1, 2009.

3

4

(END)