



# NEW HAMPSHIRE NOTARY PUBLIC STATUTES

## **NOTARIES PUBLIC AND COMMISSIONERS RSA 455**

**455:1 Appointment.** – Notaries public shall be appointed by the governor, with advice and consent of the executive council, and shall be commissioned for 5 years.

**455:2 Application.** – Any person applying to be a notary public shall be a resident of this state. The applicant shall sign a written statement under oath as to whether the applicant has ever been convicted of a crime that has not been annulled by a court, other than minor traffic violations. The applicant shall be endorsed for appointment by 2 notaries public and a registered voter of this state.

**455:2-a Competency.** – It shall be lawful for any notary public or any other officer authorized to administer an oath or take an acknowledgment or proof of an instrument or make protest, who is a stockholder, director, officer or employee of a bank or other corporation, to take the acknowledgment of any party to any written instrument executed to or by such corporation, or to administer an oath to any other stockholder, director, officer, employee or agent of such corporation, or to protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by such corporation; provided it shall be unlawful for any notary public or other officer authorized to administer an oath or take an acknowledgment or proof of an instrument or make protest, to take the acknowledgment of an instrument executed by or to a bank or other corporation of which he is a stockholder, director, officer or employee, where such notary or other officer is a party to such instrument, either individually or as a representative of such corporation, or to protest any negotiable instrument owned or held for collection by such corporation, where such notary or other officer is individually a party to such instrument. No person acting in the capacity of notary public shall notarize his or her own signature. This section shall not be construed to imply that the acts herein made lawful may heretofore have been unlawful, and no instrument heretofore acknowledged or notarized before a notary public or other officer who would have been competent to act under the terms hereof shall hereafter be impugned or invalidated on the grounds that such notary public or other officer was incompetent to act.

**455:3 Powers.** – Every notary public, in addition to the usual powers of the office, shall have the same powers as a justice of the peace in relation to depositions and the acknowledgment of deeds and other instruments and the administering of oaths. All acknowledgments made by a notary public shall be either under an official seal or shall carry the legible imprint of an official rubber stamp stating the name of the notary, the words "notary public, New Hampshire" and the expiration date of the notary public's commission.

**455:4 Protest as Evidence.** – The protest of a bill of exchange, note or order, duly certified by a notary public, shall be evidence of the facts stated in the protest and of the notice given to the drawer or endorsers.

**455:5 Deposit of Records.** [repealed effective 1/1/06, Chapter 672, Laws of 2005]  
**455:6 Notary's Death or Insanity.** [repealed effective 1/1/06, Chapter 672, Laws of 2005]  
**455:7 Demand for Records.** [repealed effective 1/1/06, Chapter 672, Laws of 2005]  
**455:8 Penalty for Nondelivery.** [repealed effective 1/1/06, Chapter 672, Laws of 2005]  
**455:9 Custody of Records.** [repealed effective 1/1/06, Chapter 672, Laws of 2005]  
**455:10 Copies of Records.** [repealed effective 1/1/06, Chapter 672, Laws of 2005]

**455:11 Notarial Fees.** – Notaries public shall be entitled to a fee of up to \$10 for each oath, witness, service or certification with the following exceptions:

- I. For services related to the taking of depositions, the notary public shall be entitled to the same fees as justices are entitled to receive pursuant to RSA 517:19.
- II. No fees shall be allowed for administering and certifying oaths of office of town officers.

**455:12 Appointment.** – The governor, with advice and consent of the executive council, may appoint, in each state, district and territory of the United States, and in each foreign country to which the United States sends a representative, a commissioner or commissioners of deeds, to continue in office 5 years.

**455:13 Oath.** – Before any commissioner of deeds shall perform any duty of his or her office, he or she shall take and subscribe an oath, before a judge of some court of record, that he or she will well and faithfully perform all the duties of the office, which oath shall be filed by him or her in the office of the secretary of state within 3 months after taking the same.

**455:14 Powers.** – Such commissioner of deeds may, both within and without this state, administer oaths, take depositions and affidavits to be used in this state and notify parties of the time and place thereof, and take the acknowledgment of deeds or instruments to be used or recorded in this state, in the same manner and with the same effect as a justice of the peace of this state may do within the state.

**455:15 For Other States; By Court Appointment.** – Any commissioner for any other state who is authorized to take depositions, administer oaths and affirmations and take the acknowledgment of deeds within this state, to be used in such other state, and any commissioner appointed by the supreme or superior court or any justice thereof, shall have the power to administer oaths and affirmations, to issue writs of summons to a witness, to proceed against such witness upon his neglect to appear and give his deposition, and in all proceedings under his commission, that is vested in justices of the peace in like cases.

**455:16 Misconduct, Penalties.**

- I. A person shall be subject to a civil penalty not to exceed \$1,000 if such person:
  - (a) When applying for a commission as a notary public negligently or recklessly makes a material false representation on the application form;
  - (b) Holding a commission as a notary public or justice of the peace, negligently or recklessly makes a notarial act that is false;
  - (c) Holding a commission as a notary public or justice of the peace, negligently or recklessly makes a notarial act for a person not personally known by the notary without first requiring the person to establish his or her identity; or
  - (d) Holding a commission as a notary public or justice of the peace, negligently or recklessly makes a notarial act purporting to have witnessed the maker's signing of the document or purporting to have received the oath or affirmation of the person, when the notary did not actually witness the maker's signing of the document or did not actually receive the oath or affirmation of the person.

II. A person shall be guilty of a class A misdemeanor:

(a) If such person purposefully or knowingly commits any of the acts listed in paragraph I.

(b) If such person makes a notarial act, as defined by RSA 456-B:1, I, knowing he or she is not a person authorized by RSA 456-B:3 to perform a notarial act.

III. (a) The court, upon petition of the attorney general, may levy upon any person who violates the provisions of paragraph I a civil penalty in an amount not to exceed \$1,000 per violation. All penalties assessed under this paragraph shall be paid to the secretary of state for deposit into the general fund.

(b) The attorney general shall have authority to notify suspected violators of this section of the state's intention to seek a civil penalty, to negotiate, and to settle with such suspected violators without court action, provided any civil penalty paid as settlement shall be paid to the secretary of state for deposit into the general fund.

#### **455:17 Notary Public, Justice of the Peace Manual, Education, Enforcement.**

I. The secretary of state, with the advice and approval of the attorney general, shall prepare or cause to be prepared an up-to-date manual on the privileges, duties, and responsibilities of notaries public and justices of the peace in New Hampshire. The manual shall be written in non-technical language. The manual shall be distributed to each person commissioned a notary public, commissioner of deeds pursuant to RSA 455:12, and justice of the peace. The manual shall be available to the public free of charge. The manual shall be updated within 6 months following the end of any session of the legislature that amends the statutes affecting the privileges, duties, or responsibilities of notaries public, commissioners, or justices of the peace. The first edition of the manual shall be prepared by September 1, 2007.

II. The secretary of state may use the funds from the portion of the fees paid by applicants for commissions as a notary public or a justice of the peace deposited into the fund established in RSA 660:31 for the preparation, printing, and distribution of a notary public/justice of the peace manual, other education of notaries public/justices of the peace, or both, and the acquisition, development, and maintenance of electronic records systems that will enhance the efficiency of the management of public records maintained by his or her office and to enhance the ease of submitting applications and renewals. The secretary of state shall enter into an agreement with the attorney general to provide funds from the fund established in RSA 660:31 for the use of the attorney general for legal services related to the notary public/justice of the peace manual and for the enforcement of laws relating to notary public or justices of the peace misconduct.

### **UNIFORM LAW ON NOTARIAL ACTS RSA CHAPTER 456-B**

#### **456-B:1 Definitions.**

I. "Notarial act" means any act that a notary public 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.

II. "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.

III. "Verification upon oath or affirmation" means a declaration that a statement is true made by a person upon oath or affirmation.

IV. "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; or

(d) In any other capacity as an authorized representative of another.

V. "Notarial officer" means a notary public, justice of the peace, or other office authorized to perform notarial acts.

#### **456-B:2 Notarial Acts.**

I. 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.

II. 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.

III. 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.

IV. 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.

V. In making or noting a protest of a negotiable instrument the notarial officer must determine the matters set forth in RSA 382-A: 3-505.

VI. 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.

#### **456-B:3 Notarial Acts in This State.**

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

(a) A notary public of this state;

(b) A judge, marital master, clerk, deputy clerk, register of probate, or deputy register of probate of any court of this state; or

(c) a justice of the peace of this state.

II. Notarial acts performed within this state under federal authority as provided in RSA 456-B: 5 have the same effect as if performed by a notarial officer of this state.

III. The signature, official seal or the legible imprint of an official rubber stamp stating the name of the notary, and the words "notary public, New Hampshire" and the expiration date of the notary public's commission of a person performing a notarial act or for a justice of the peace the name of the justice and the expiration date of his or her commission typed, printed, or stamped on the document are prima facie evidence that the signature is genuine and that the person holds the designed title.

IV. Any person admitted to the practice of law in this state may administer an oath or affirmation for the purpose of taking oral testimony.

#### **456-B:4 Notarial Acts in Other Jurisdiction of the United States.**

I. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

(a) A notary public of that jurisdiction;

- (b) A judge, clerk, or deputy clerk of a court of that jurisdiction; or
  - (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.
- II. Notarial acts performed in other jurisdictions of the United States under federal authority as provided in RSA 456-B:5 have the same effect as if performed by a notarial officer of this state.
- III. 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.
- IV. The signature and indicated title of an officer listed in subparagraphs I(a) or (b) conclusively establishes the authority of a holder of that title to perform a notarial act.

**456-B:5 Notarial Acts Under Federal Authority.**

- I. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed anywhere by any of the following persons under authority granted by the law of the United States:
- (a) A judge, clerk, or deputy clerk of a court;
  - (b) A commissioned officer on active duty in the military service of the United States;
  - (c) An officer of the foreign service or consular officer of the United States; or
  - (d) Any other person authorized by federal law to perform notarial acts.
- II. 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.
- III. The signature and indicated title of an officer listed in subparagraphs I(a), (b), or (c) conclusively establishes the authority of a holder of that title to perform a notarial act.

**456-B:6 Foreign Notarial Acts.**

- I. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multi-national or international organization by any of the following persons:
- (a) A notary public or notary;
  - (b) A judge, clerk, or deputy clerk of a court of record; or
  - (c) Any other person authorized by the law of that jurisdiction to perform notarial acts.
- II. 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.
- III. 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.
- IV. 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.
- V. An official stamp or seal of an officer listed in subparagraph I(a) or (b) is prima facie evidence that a person with the indicated title has authority to perform notarial acts.
- VI. 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.

**456-B:7 Certificate of Notarial Acts.**

- I. A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of office. If the officer is a notary public, the certificate must also indicate the date of expiration, if any, of the commission of office, but omission of that information may subsequently be

corrected. If the officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

II. A certificate of a notarial act is sufficient if it meets the requirements of paragraph I and it:

(a) Is in the short form set forth in RSA 456-B:8;

(b) Is in a form otherwise prescribed by the law of this state;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

III. By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by RSA 456-B:2.

**456-B:8 Short Forms.** The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by RSA 456-B:7, I:

I. For an acknowledgement in an individual capacity:

State of \_\_\_\_\_

(County) of \_\_\_\_\_

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

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
Title (and Rank)

[My commission expires \_\_\_\_\_]

II. For an acknowledgement in a representative capacity:

State of \_\_\_\_\_

(County) of \_\_\_\_\_

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g. officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
Title (and Rank)

[My commission expires \_\_\_\_\_]

III. For a verification upon oath or affirmation:

State of \_\_\_\_\_  
(County) of \_\_\_\_\_

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

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
[My commission expires \_\_\_\_\_]

IV. For witnessing or attesting a signature:

State of \_\_\_\_\_  
(County) of \_\_\_\_\_

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

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
[My commission expires \_\_\_\_\_]

V. For attestation of a copy of a document:

State of \_\_\_\_\_  
(County) of \_\_\_\_\_

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

\_\_\_\_\_  
Dated \_\_\_\_\_

\_\_\_\_\_  
(Signature of notarial officer)  
(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
[My commission expires \_\_\_\_\_]

**456-B:9 Notarial Acts Affected by This Act.** This chapter applies to notarial acts performed on or after its effective date.

**456-B:10 Uniformity of Application and Construction.** This chapter shall be so interpreted to make uniform the law among those states enacting it.

**456-B:11 Short Title.** This chapter may be cited as the Uniform Law on Notarial Acts.