

STATE LAW AND THE DUTIES OF A NOTARY PUBLIC
Effective as of August 1, 2009
Office of the Secretary of State
State of North Dakota

The following laws are from the North Dakota Century Code (NDCC) and pertain to the duties of a Notary Public. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority or weight as the actual NDCC and should not be equated with the NDCC as an equal authority. This copy is only intended as a helpful resource and reference. For official and legal purposes, the official NDCC should be used.

- 44-05 Administration Of Oaths
- 44-06 Notaries Public
- 47-19-13 through 47-19-36 Record Title

NDCC CHAPTER 44-05 ADMINISTRATION OF OATHS

44-05-01. OFFICERS AUTHORIZED TO ADMINISTER OATHS. The following officers are authorized to administer oaths:

1. Each justice of the supreme court, each judge of the district court, the clerk of the supreme court, and the clerk's deputy.
2. The clerk of the district court, county auditor, recorder, and the deputy of each such officer within that officer's county.
3. Each county commissioner and public administrator within that officer's county.
4. Notary public anywhere in the state, upon complying with section 44-06-04.
5. Each city auditor, municipal judge, and township clerk, within that officer's own city or township.
6. Each sheriff and the deputy sheriff within the sheriff's county in the cases prescribed by law.
7. Other officers in the cases prescribed by law or by rule of the supreme court.

44-05-02. PERSON MAY AFFIRM. A person conscientiously opposed to swearing may affirm and is subject to the penalties of perjury as in case of swearing.

44-05-03. FEE FOR TAKING ACKNOWLEDGMENT AND ADMINISTERING AN OATH. Any officer authorized by law to take and certify acknowledgment of a deed or other instrument is entitled to charge and receive not more than five dollars.

44-05-04. PLACE OF FILING OATH OF OFFICE. Unless otherwise provided by law, any civil or public officer required by section 44-01-05 or any other provision of law to take an oath of office must file the oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

NDCC CHAPTER 44-06 NOTARIES PUBLIC

44-06-01. APPOINTMENT AND QUALIFICATION OF NOTARIES PUBLIC. The secretary of state shall appoint notaries public. A notary holds office for six years unless sooner removed by the secretary of state. Each notary may administer oaths and perform all other duties required by law. Notwithstanding any other provision of law, a notary public may perform any notarial act as defined in section 47-19-14.1 outside the state as provided in section 47-19-55. A notary public must have the qualifications of an elector as to age and residence or must reside in a county that borders this state and which is in a state that extends reciprocity to a notary public who resides in a border county of this state. If the person resides in a county bordering this state, that person must designate the secretary of state as the agent for service of process, for all purposes relating to notarial acts, including the receipt of correspondence relating to notarial acts.

44-06-02. COMMISSION - RECORD - FEE - NOTICE. The secretary of state shall issue a commission to each notary public appointed by the secretary of state in the notary's legal name. Before issuing a commission, the secretary of state may require proof acceptable to the secretary of state of the notary's legal name. The notary shall post the commission in a conspicuous place in the notary's office. The secretary of state shall collect thirty-six dollars for the issuance of the commission. The secretary of state shall remit all fees collected under this section to the state treasurer for deposit in the general fund. The secretary of state shall keep a record of appointments and the date of the expiration of the appointments. The secretary of state shall notify each notary public by mail at least thirty days before the expiration of the notary public's term of the date upon which the notary public's commission will expire. The notice must be addressed to the notary public at the last-known place of residence. Each notary public issued a commission shall notify the secretary of state by mail within sixty days of any change of address. If a notary fails to notify the secretary of state within sixty days of a change of address, the secretary of state may impose a late fee in the amount of ten dollars. The notary shall pay any late fee imposed by the secretary of state before the renewal of the notary's commission.

44-06-03. OATH AND BOND OF NOTARY PUBLIC - APPROVAL OF BOND. Each notary public, before entering upon the duties of the office, shall take the oath prescribed for civil officers and give to the state a bond in the penal sum of seven thousand five hundred dollars conditioned for the faithful discharge of the duties of the office. Such bond may be furnished by a surety or bonding company authorized to do business in this state or by one or more sureties, and is subject to approval by the secretary of state.

44-06-03.1. NOTICE BY SURETY TO SECRETARY OF STATE OF CLAIM AGAINST BOND. If a surety or bonding company giving a bond under section 44-06-03 receives a claim against that bond with respect to a notary public, that surety or bonding company shall notify the secretary of state of the outcome of said claim.

44-06-04. FILING OF OATH, BOND, AND IMPRESSION OF NOTARIAL SEAL - REQUIREMENTS OF SEAL. Each notary public, before entering upon the duties of office, shall file the notary public's oath and bond, in the office of the secretary of state. The secretary of state, upon receipt of the proper fee, oath, and bond, shall issue a certificate of authorization with which the notary public may obtain an official notary seal. A notary seal vendor may provide a notary with an official seal only upon presentation by the notary of a certificate of authorization. The notary public shall place an impression of the notary's seal on the certificate of authorization and return the certificate of authorization to the secretary of state.

After the certificate of authorization is received, approved, and filed, the secretary of state shall issue a notary commission that authorizes the notary to commence the duties of the office of notary public. After August 1, 2003, a notary being commissioned must obtain a seal approved by the secretary of state which must be designed to leave a clear impression, be photographically reproducible, include the words "State of North Dakota" and "Notary Public", contain the name and commission expiration date of the notary public exactly as shown on the notary's commission, and which may not contain any other words, numbers, symbols, or a reproduction of the great seal of the state. All notary seals must be surrounded by a border and be either one and five-eighths inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally. An official seal is the property of the notary only and may not be retained or used by any other person including an employer of a notary even if the employer purchased or paid for the notary's seal. An official seal must

remain in the direct and exclusive control of the notary at all times during a notary's commission. A notary must affix the notary's seal to each jurat or certificate of acknowledgment at the time of performing the notarial act.

Upon the resignation, removal, revocation, or expiration of a notary's commission, or the death or name change of a notary, the notarial seal must be destroyed. When a notary's official seal is lost, damaged, or is rendered otherwise unworkable, the notary shall immediately submit written notice of that fact to the secretary of state. Within five working days after receipt of the notice, the secretary of state shall issue a new certificate of authorization which a notary may use to obtain a replacement seal.

44-06-04.1. NAME CHANGE. A notary who has legally changed the notary's name shall submit to the secretary of state a rider to the notary's surety bond stating both the old and new names, the effective date of the new name, and a ten dollar fee within sixty days of the name change. Upon receipt of the rider and fee the secretary of state shall issue a certificate of authorization that a notary public may use to obtain a new seal. Once the authorization is on file the secretary of state shall issue a commission with the notary's new name. After notification to the secretary of state of the name change and until a new seal is obtained, the notary may continue to use the old seal but must sign any notarial certificate substantially as follows:

Notary public North Dakota
Formerly known and commissioned as

My commission expires

Notary Seal

44-06-05. VACANCY - DISPOSITION OF RECORDS AND SEALS. Whenever the office of any notary public becomes vacant, the record of the notary together with all papers relating to the office must be deposited in the office of the secretary of state except for the seal which must be destroyed as provided in section 44-06-04. If a notary public resigns the notary's commission, the notary shall notify the secretary of state within thirty days of the resignation, and shall indicate the effective date of the resignation. Any notary public who, on resignation or removal from office, or any executor or personal representative of the estate of any deceased notary public who neglects to deposit the records and papers as aforesaid for the space of three months, or any person who knowingly destroys, defaces, or conceals any records or papers of any notary public, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars, and that person also is liable in a civil action for damages to any party injured.

44-06-06. DUTY OF NOTARY AS TO PROTESTED INSTRUMENT. Each notary public, when any bill of exchange, promissory note, or other written instrument, is by that notary public protested for nonacceptance or nonpayment, shall give notice thereof in writing to the maker, to each and every endorser of such bill of exchange, and to the maker of each security or the endorsers of any promissory note or other written instrument, immediately after such protest has been made.

44-06-07. SERVICE OF NOTICE BY NOTARY PUBLIC. Each notary public shall serve notice personally upon each person protested against, or by properly folding the notice, directing it to the person to be charged at that person's place of residence according to the best information that the person giving the notice can obtain, depositing it in the United States mail or post office most conveniently accessible, and prepaying the postage thereon.

44-06-08. RECORD OF NOTICES - CERTIFIED COPY - COMPETENT EVIDENCE. Each notary public shall keep a record of all notices, of the time and manner in which the same were served, the names of all the persons to whom the same were directed, and the description and amount of the instrument protested. Such record, or a copy thereof, certified by the notary under seal, at all times is competent evidence to prove such notice in any court of this state.

44-06-09. SECRETARY OF STATE - PRESERVATION OF RECORDS. The secretary of state shall receive and keep safely all the records and papers directed by this chapter to be deposited in the secretary of state's office

and shall furnish certified copies thereof when required. Such copies have the same force and effect as if the same were certified by the notary public by whom the record was made.

44-06-10. REMOVAL FROM COUNTY - REQUIREMENTS. Repealed by S.L. 1955, ch. 286, §1.

44-06-11. REVOCATION OF NOTARY COMMISSION - NOTICE. In case the commission of a person appointed as a notary is subject to a revocation action, the secretary of state shall give notice thereof by mail to that person immediately, using the procedures of chapter 28-32. The notice may provide that the person may not perform any notarial acts during the pendency of the revocation proceeding. A notary whose commission is revoked may be denied a new commission for a period of up to six years following the date of revocation.

44-06-12. NOTARY PUBLIC COMMISSION - VENUE - DATE OF EXPIRATION - FORM OF JURAT. Every notary public taking an acknowledgment to any instrument, immediately following the notary's signature to the jurat or certificates of acknowledgment of the type set out in chapter 47-19, shall legibly print, stamp, or type the notary's name and include the date of the expiration of the commission. Each jurat or certificate of acknowledgment must also contain the name of the state and county where the notarial act is being performed. The expiration date must be stamped or printed upon the instrument and must be substantially in the following form:

My commission expires _____.

Each jurat must be substantially in the following form:

Subscribed and sworn to before me on _____, _____.

(Notary Seal)

(signature of notary)
Notary Public
My commission expires _____

44-06-13. ACTING AS NOTARY WHEN DISQUALIFIED - PENALTY. A notary public who exercises the duties of a notary's office with knowledge that the notary's commission has expired or has been revoked or that the notary is disqualified otherwise or any other person who acts as a notary or performs a notarial act without a lawful notary commission is guilty of an infraction, and, if appropriate, the notary's commission must be revoked by the secretary of state using the procedure under chapter 28-32.

44-06-13.1. PROHIBITED ACTS - PENALTY.

1. A notary public may not notarize a signature on a document if:
 - a. The document was not first signed or re-signed in the presence of the notary public, in the case of a jurat, or in the case of a certificate of acknowledgment, was not acknowledged in the presence of the notary public.
 - b. The name of the notary public or the spouse of the notary public appears on the document as a party to the transaction or as a signatory to a petition within the meaning of section 1-01-50.
 - c. The signature is that of the notary public or the spouse of the notary public.
 - d. Except as otherwise provided by law, the notary public uses a name or initial in notarizing the document other than as it appears on the notary's commission. However, such an act by a notary by itself does not affect the validity of the document.
 - e. The date of the jurat or certificate of acknowledgment is not the actual date the document is to be notarized or the jurat or certificate of acknowledgement is undated.

- f. The signature on the document or the notarial certificate is not an original signature, except as otherwise provided by law.
- g. The notary is falsely or fraudulently signing or notarizing a document, jurat, or certificate of acknowledgement or in any other way is impersonating or assuming the identity of another notary.
- h. The signature is on a blank or incomplete document.
- i. In the case of a document drafted in a language other than English, the document is not accompanied by a permanently affixed and accurate written English translation.
- j. Except as otherwise provided by law:
 - (1) The document is a copy or certified copy of any vital record authorized or required by law to be registered or filed;
 - (2) The document is a copy or certified copy of an instrument entitled by law to be recorded; or
 - (3) The document is a copy or certified copy of a public record containing an official seal.
- k. The notary did not obtain satisfactory evidence of the identity of the signer, unless the signer is personally known as follows:
 - 2. A notary may not make or purport to make any certified copy of a vital record, a recordable instrument, or a public record containing an official seal as described in subdivision j of subsection 1.
 - 3. A notary public who violates this section is guilty of an infraction.

44-06-13.2. DISCIPLINARY PROCEEDINGS.

- 1. The secretary of state may deny, revoke, or suspend a commission granted under this chapter on the following grounds:
 - a. Conviction by a court of competent jurisdiction of an offense related to the honesty, integrity, or trustworthiness of the notary which the secretary of state determines would render the notary or notary applicant unfit to serve the public as a notary.
 - b. Fraud, misrepresentation, or false statement in obtaining or renewing a commission.
 - c. Failure by a commissioned notary to report in writing to the secretary of state the notary's conviction by a court of competent jurisdiction of a felony within ninety days of the date of the conviction.
 - d. Engaging in any act prohibited under section 44-06-13.1.
 - e. Violating any other provision of this chapter.
- 2. The secretary of state may impose a lesser sanction for a violation of subsection 1 if determined appropriate by the secretary of state under the pertinent facts and circumstances. A lesser sanction includes imposition of a civil penalty not to exceed five hundred dollars or a letter of reprimand.

3. Any person may file a complaint with the secretary of state seeking denial, revocation, or suspension of a commission issued or to be issued by the secretary of state. The secretary of state shall provide a complaint form. The complainant shall use that form and the form must be verified under oath by the complainant or duly authorized officer of the complainant. If the secretary of state determines that a complaint alleges facts that, if true, would require denial, revocation, or suspension of a commission, the secretary of state shall initiate a hearing without undue delay. If the secretary of state determines a complaint does not state facts warranting a hearing, the secretary of state may dismiss the complaint. The secretary of state may initiate a hearing for denial, revocation, or suspension of a license on the secretary of state's own motion.
4. Any person whose commission has been revoked or suspended may apply to the secretary of state for reinstatement of the commission or termination of the suspension.

44-06-14. FEES TO BE CHARGED FOR NOTARIAL ACTS - PENALTY. A notary public is entitled to charge and receive not more than five dollars per notarial act. A notary who charges a fee exceeding that amount is guilty of an infraction. It is an infraction for any person other than the notary public to impose or collect any monetary fee, charge, or commission in connection with the notarization of any document. A notary may charge a travel fee when traveling to perform a notarial act if:

1. The notary and the person requesting the notarial act agree upon the travel fee in advance of the travel; and
2. The notary explains to the person requesting the notarial act that the travel fee is both separate from the notarial fee and neither specified nor mandated by law.

NDCC CHAPTER 47-19-13 THROUGH 47-19-36 RECORD TITLE

47-19-13. ACKNOWLEDGMENT AND PROOF - PERSONS AUTHORIZED TO MAKE – STATEWIDE JURISDICTION. The proof or acknowledgment of an instrument may be made at any place within this state before a judge, or the clerk, of the supreme court, or a notary public.

47-19-14. ACKNOWLEDGMENT AND PROOF - LIMITED TO DISTRICT OF OFFICER. The proof or acknowledgment of an instrument may be made in this state within the judicial district, county, subdivision, or city for which the officer was elected or appointed, before:

1. A judge or clerk of a court of record;
2. A mayor of a city;
3. A recorder;
4. A United States commissioner;
5. A county auditor; or
6. A township clerk or a city auditor.

47-19-14.1. RECOGNITION OF NOTARIAL ACTS. For the purposes of this section and sections 47-19-14.2 and 47-19-14.7, "notarial acts" mean acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

1. A notary public authorized by any jurisdiction to perform notarial acts.
2. A justice, judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.
3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States department of state to perform notarial acts in the place in which the act is performed.
4. A commissioned officer or noncommissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts, if the notarial act is performed for one of the following, or that person's dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States.
5. Any other person authorized to perform notarial acts in the place in which the act is performed.

47-19-14.2. AUTHENTICATION OF AUTHORITY OF OFFICER.

1. If the notarial act is performed by any of the persons described in subsections 1 through 4 of section 47-19-14.1, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, written indication of the person's title or rank and serial number, if any, is sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of the person's authority is not required.
2. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to perform the act if:
 - a. Either a foreign service officer of the United States, resident in the country in which the act is performed, or a diplomatic or consular officer of the foreign country, resident in the United States, certifies that a person holding that office is authorized to perform the act;
 - b. The official seal of the person performing the notarial act is affixed to the document; or
 - c. The title of the person, and an indication of the person's authority to perform notarial acts appears either in a recognized digest of foreign law, or in a list customarily used as a source of such information.
3. If the notarial act is performed by a person other than one described in subsections 1 and 2, there is sufficient proof of the authority of that person to act, if the clerk of a court of record, in the place in which the notarial act is performed, certifies to the official character of that person, and to the person's authority to perform the notarial act.
4. The signature and title of the person performing the notarial act are prima facie evidence that that person is a person with the designated title and that the signature is genuine.

47-19-14.3. CERTIFICATE OF PERSON TAKING ACKNOWLEDGMENT. The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before the person taking the acknowledgement and acknowledged that the person executed the instrument; and
2. The person acknowledging was known to the person taking the acknowledgment, or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

47-19-14.4. RECOGNITION OF CERTIFICATE OF ACKNOWLEDGMENT. The form of a certificate of acknowledgment used by a person whose authority is recognized under section 47-19-14.2 shall be accepted in this state if:

1. The certificate is in a form prescribed by the laws or regulations of this state;
2. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
3. The certificate contains the words "acknowledged before me" or their substantial equivalent.

47-19-14.5. CERTIFICATE OF ACKNOWLEDGMENT. The words "acknowledged before me", or their substantial equivalent, as used in a certificate of acknowledgment made by a person taking an acknowledgment outside this state shall mean:

1. That the person acknowledging appeared before the person taking the acknowledgment and acknowledged that the person executed the instrument;
2. That, in the case of:
 - a. A corporation, the officer or agent acknowledged holding the position or title set forth in the instrument and certificate; signing the instrument on behalf of the corporation by proper authority; and that the instrument was the act of the corporation;
 - b. A limited liability company, the manager or agent acknowledged holding the position or title set forth in the instrument and certificate; signing the instrument on behalf of the limited liability company by proper authority; and that the instrument was the act of the limited liability company;
 - c. A partnership, the partner or agent acknowledged signing the instrument on behalf of the partnership by proper authority and that the instrument was the act of the partnership;
 - d. A person acknowledging as attorney in fact for a principal, signing the instrument by proper authority as the act of the principal; or
 - e. A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, signing the instrument by proper authority and in the capacity stated in the instrument; and
3. That the person taking the acknowledgment either knew, or had satisfactory evidence, that the person acknowledging was the person named in the instrument or certificate.

47-19-14.6. SHORT FORMS OF ACKNOWLEDGMENT. The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law or regulation of this state. The forms shall be known as the "statutory short forms of acknowledgment", and may be referred to by that name. The authorization of the forms provided in this section does not preclude the use of other forms:

1. For an individual acting in that individual's own right:
State of _____
County of _____

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

(Signature of person taking acknowledgment)

(Title or rank)
(Serial number, if any)

2. For a corporation:
State of _____
County of _____

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

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

3. For a limited liability company:
State of _____
County of _____

The foregoing instrument was acknowledged before me this (date) by (name of manager or agent and title of manager or agent) of (name of limited liability company acknowledging), a (state or place of organization) limited liability company, on behalf of the limited liability company.

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

4. For a partnership:
State of _____
County of _____

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

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

5. For an individual acting as attorney in fact for a principal:
State of _____
County of _____

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

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

6. For a public officer, trustee, guardian, personal representative, or other representative:
State of _____
County of _____

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

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

47-19-14.7. PRIOR ACKNOWLEDGMENTS NOT AFFECTED. A notarial act performed prior to the effective date of sections 47-19-14.1 through 47-19-14.8 shall not be affected by those sections. Sections 47-19-14.1 through 47-19-14.8 provide an additional method of proving notarial acts, and do not diminish or invalidate the recognition accorded to notarial acts by other laws or regulations of this state.

47-19-14.8. SHORT TITLE. Sections 47-19-14.1 through 47-19-14.8 may be cited as the Uniform Recognition of Acknowledgments Act.

47-19-15. ACKNOWLEDGMENT AND PROOF WITHOUT STATE BUT WITHIN UNITED STATES - OFFICERS QUALIFIED. Repealed by S.L. 1971, ch. 453, § 10.

47-19-16. ACKNOWLEDGMENT AND PROOF - WITHOUT THE UNITED STATES - OFFICERS QUALIFIED. Repealed by S.L. 1971, ch. 453, § 10.

47-19-17. ACKNOWLEDGMENT AND PROOF BEFORE COMMISSIONED OFFICER OF ARMED FORCES - CONDITIONS. Repealed by S.L. 1971, ch. 453, § 10.

47-19-17.1. Persons AUTHORIZED TO ADMINISTER OATHS AND TAKE ACKNOWLEDGMENTS. Repealed by S.L. 1971, ch. 453, § 10.

47-19-17.2. VALIDATING CERTAIN OATHS AND ACKNOWLEDGMENTS. Repealed by S.L. 1971, ch. 453, § 10.

47-19-18. DEPUTIES MAY TAKE ACKNOWLEDGMENTS. When any officer mentioned in sections 47-19-14, 47-19-14.1, and 47-19-14.2 is authorized by law to appoint a deputy, the acknowledgment or proof may be taken by such deputy in the name of the principal as deputy, or by such deputy as deputy.

47-19-19. EFFECT OF RECORDING. The record of any instrument shall be notice of the contents of the instrument, as it appears of record, as to all persons.

47-19-20. IDENTITY OF PERSON ACKNOWLEDGING - PROOF REQUIRED. The acknowledgment of an instrument must not be taken unless the officer taking it knows or has satisfactory evidence on the oath or affirmation of a credible witness that the person making the acknowledgment is the individual who is described in and who executed the instrument, or if executed by a corporation or limited liability company, that the officer or manager making such acknowledgment is authorized to make it as provided in section 47-10-05.1.

47-19-21. PROOF OF AN UNACKNOWLEDGED INSTRUMENT - METHOD. Proof of the execution of an instrument when not acknowledged may be made:

1. By the party executing it;
2. By a subscribing witness; or
3. By other witnesses in cases mentioned in sections 47-19-23 and 47-19-24.

47-19-22. KNOWLEDGE REQUIRED BY OFFICER OF SUBSCRIBING WITNESS IN TAKING PROOF. If proof of the execution of an instrument is made by a subscribing witness, such witness must be known personally to the officer taking the proof to be the person whose name is subscribed to the instrument as a witness or must be proved to be such by the oath of a credible witness. The subscribing witness must prove that the person whose name is subscribed to the instrument as a party is the person described in it, that such person executed it, and that the witness subscribed the witness's name thereto as a witness.

47-19-23. PROOF BY HANDWRITING - WHEN RECEIVED - REQUIREMENTS. The execution of an instrument may be established by proof of the handwriting of the party and of a subscribing witness, if there is one, in the following cases:

1. When the parties and all the subscribing witnesses are dead;
2. When the parties and all the subscribing witnesses are nonresidents of the state;
3. When the place of their residence is unknown to the party desiring the proof and cannot be ascertained by the exercise of due diligence;
4. When the subscribing witness is concealed, or cannot be found by the officer by the exercise of due diligence in attempting to serve a subpoena or attachment; or
5. In case of the continued failure or refusal of the witness to testify for the space of one hour after the witness's appearance.

47-19-24. PROOF BY HANDWRITING - FACTS REQUIRED. The evidence taken under section 47-19-23 must prove to the officer satisfactorily the following facts:

1. The existence of one or more of the conditions mentioned therein;
2. That the witness testifying knew the person whose name purports to be subscribed to the instrument as a party, that the witness is well acquainted with that person's signature, and that it is genuine;
3. That the witness testifying personally knew the person who subscribed the instrument as a witness, that the witness is well acquainted with the instrument witness's signature, and that it is genuine; and
4. The place of residence of the witness testifying.

47-19-25. CERTIFICATE OF PROOF - CONTENTS. An officer taking proof of the execution of an instrument must set forth in the officer's certificate, endorsed thereon or attached thereto:

1. All the matters required by law to be done or known by the officer;
2. All the matters required by law to be proved before the officer on the proceeding;
3. The names of all the witnesses examined before the officer;
4. The place of residence of all witnesses examined before the officer; and
5. The substance of the evidence given by witnesses examined before the officer.

47-19-26. CERTIFICATE OF ACKNOWLEDGMENT - FORMS. An officer taking an acknowledgment of an instrument within this state must endorse thereon or attach thereto a certificate substantially in the forms prescribed in sections 47-19-27, 47-19-28, 47-19-29, and 47-19-30.

47-19-27. GENERAL CERTIFICATE OF ACKNOWLEDGMENT. A certificate of acknowledgment, unless otherwise provided in this chapter, must be in substantially the following form:

STATE OF NORTH DAKOTA)
 County of _____)

On this ____ day of _____, in the year _____ before me personally appeared _____, known to me (or proved to me on oath of _____) to be the person who is

described in and who executed the within instrument, and acknowledged to me that that person (or they) executed the same.

47-19-28. CERTIFICATE OF ACKNOWLEDGMENT EXECUTED BY A CORPORATION. The certificate of acknowledgment of an instrument executed by a corporation must be substantially in the following form:

STATE OF NORTH DAKOTA)
County of _____)

On this _____ day of _____, in the year _____ before me (here insert the name and quality of the officer), personally appeared _____, known to me (or proved to me on oath of _____) to be the president (or other officer or person) of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

47-19-28.1. CERTIFICATE OF ACKNOWLEDGMENT EXECUTED BY A LIMITED LIABILITY COMPANY. The certificate of acknowledgment of an instrument executed by a limited liability company must be substantially in the following form:

STATE OF NORTH DAKOTA)
County of _____)

On this _____ day of _____, in the year _____ before me (here insert the name and quality of the manager), personally appeared _____, known to me (or proved to me on oath of _____) to be the president (or other manager or person) of the limited liability company that is described in and that executed the within instrument, and acknowledged to me that such limited liability company executed the same.

47-19-29. CERTIFICATE OF ACKNOWLEDGMENT BY AN ATTORNEY IN FACT. The certificate of acknowledgment by an attorney in fact must be substantially in the following form:

STATE OF NORTH DAKOTA)
County of _____)

On this _____ day of _____, in the year _____ before me (here insert the name and quality of the officer), personally appeared _____, known to me (or proved to me on the oath of _____) to be the person who is described in and whose name is subscribed to the within instrument as the attorney in fact of _____ and acknowledged to me that that person subscribed the name of _____ thereto as principal and that person's own name as attorney in fact.

47-19-30. CERTIFICATE OF ACKNOWLEDGMENT BY DEPUTY SHERIFF. All acknowledgments of deeds or other instruments in writing made by any deputy sheriff of this state shall be made substantially in the following form:

STATE OF NORTH DAKOTA)
County of _____)

On this _____ day of _____, in the year _____ before me, a _____, in and for said county, personally appeared _____, known to me to be the person who is described in and whose name is subscribed to the within instrument as deputy sheriff of said county and acknowledged to me that that person subscribed the name of _____ thereto as sheriff of said county and that person's own name as deputy sheriff.

47-19-31. CERTIFICATE OF ACKNOWLEDGMENT BEFORE COMMISSIONED OFFICER OF ARMED FORCES.
Repealed by S.L. 1971, ch. 453, § 10.

47-19-32. CERTIFICATION OF ACKNOWLEDGMENTS OR PROOF OF INSTRUMENTS - OFFICER'S CERTIFICATE - HOW AUTHENTICATED. An officer taking and certifying an acknowledgment or proof of an instrument for record must authenticate the officer's certificate by affixing thereto:

1. The officer's signature followed by the name of the officer's office; and
2. The officer's seal of office, if by the laws of the territory, state, or country where the acknowledgment or proof is taken, or by authority of which the officer is acting, the officer is required to have an official seal.

A judge or clerk of a court of record must authenticate that officer's certificate by affixing thereto the seal of the judge's or clerk's court. A mayor of a city must authenticate that officer's certificate by affixing thereto the seal of the mayor's city.

47-19-33. PROHIBITION ON SELF-INTERESTED INDIVIDUALS FROM PROVING DOCUMENTS. An individual authorized by law to take or receive the proof or acknowledgment of the execution of an instrument or affidavit and to certify to the same may not take or receive the proof, acknowledgment, or affidavit or certify to the same if that individual is a party to the instrument or a member of any partnership that is a party to the instrument, or if the husband or wife of that individual is a party to the instrument. An acknowledgment taken or received in violation of this section is invalid.

47-19-34. PROOF AND ACKNOWLEDGMENT OF INSTRUMENTS AS TO CORPORATIONS AND LIMITED LIABILITY COMPANIES. No provision in any of the laws of this state, relating to the proof and acknowledgment of instruments and the taking of affidavits, shall be construed to invalidate or affect the proof or acknowledgment, affidavit, or the certificate thereof, of any instrument to which a corporation or limited liability company may be a party and which shall have been or may be proven, acknowledged, sworn to before, or certified to by, an officer, manager, or person authorized by law, who may be an officer, director, governor, manager, employee, stockholder, or member of such corporation or limited liability company. No person otherwise qualified or authorized by law to take and receive the proof or acknowledgment of an instrument or affidavit and to certify thereto shall be disqualified by reason of being an officer, director, employee, or stockholder of any corporation or a manager, governor, employee, or member of any limited liability company which is a party to such instrument, and such proof, acknowledgment, and certificate thereof shall be valid for all purposes.

47-19-35. PERSONS AUTHORIZED TO TAKE ACKNOWLEDGMENTS AND AFFIDAVITS. All officers and persons, authorized by law to take the proof or acknowledgment of an instrument or affidavit and to certify thereto, may take such proof or acknowledgment and certify to the same in any case not prohibited by this chapter.

47-19-36. AUTHORITY OF OFFICERS IN TAKING PROOF. Officers authorized to take the proof of instruments are authorized in such proceedings:

1. To administer oaths or affirmations;
2. To employ and swear interpreters; and
3. To issue subpoenas, obedience to which may be enforced as provided by title 28.