

NOTARIES PUBLIC and COMMISSIONERS

As amended by Chapter 206; Laws of 2021

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 or be a resident of an abutting state who is regularly employed or carries on a trade, business, or practice in this state at the time of applying. 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. A resident of an abutting state may be commissioned as a notary public in New Hampshire provided that the individual submits to the secretary of state: the notary application fee required under RSA 5:10 and an affidavit stating that the individual (i) is a resident of an abutting state, (ii) is a registered notary in such state, and (iii) is regularly employed or carries on a trade, business, or practice in New Hampshire.

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. –

I. 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 acknowledgement of deeds and other instruments and the administering of oaths.

II. All notarial acts performed by a notary public with respect to a record shall be either under an embossed official seal or shall carry the legible imprint of an electronic or rubber official stamp stating the name of the notary, the words “notary public, New Hampshire” and the expiration date of the notary public’s commission.

III. As used in this section:

- (a) “Electronic” has the same meaning given in RSA 456-B:1, VI;
- (b) “Notarial Act” has the same meaning given in RSA 456-B:1, I;
- (c) “Official stamp” has the same meaning given in RSA 456-B:1, IX; and
- (d) “Record” has the same meaning given in RSA 456-B”1, XI.

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 to 455:10 Repealed by 2005, 118:13, I, eff. Jan. 1, 2006. –

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.

III. For performing notarial acts for a remotely located individual under RSA 456-B:6-a, a notary public shall be entitled to a fee of \$25 per act.

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.

55:14 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 5:10-b 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 5:10-b 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 justice of the peace misconduct.

February 6, 2022