Chapter 194

1963 REPLACEMENT PART

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NOTARIES PUBLIC AND COMMISSIONERS

194.010 Appointment of notary public; qualifications; office nonlucrative upon waiver of fees; functions not official duties. The Governor shall appoint in each county of the state one or more notaries public who shall hold their commissions for the term of four years unless sooner removed by the Governor. A notary public may act throughout the state. Every person appointed as a notary public must, at the time of appointment, be 21 years of age and a citizen of the United States and of Oregon. Every notary public may file with the Secretary of State a statement waiving the fees prescribed in ORS 194.160; and in each such case the office of notary public shall be deemed nonlucrative. The functions of a notary public shall not be considered official duties under Article III, section 1 of the Oregon Constitution.
[Amended by 1961 c.498 §1]

194.020 Fees for notarial commission; duty of Secretary of State. Every applicant for appointment as a notary public shall pay in advance to the Secretary of State for the benefit of the State Treasury a fee of $5, which shall include affixing the seal of state to his commission, and an additional recording fee, in the amount required by ORS 205.320 for recording the commission, for the benefit of the county treasury of the county wherein the notary public resides. The Governor, upon the appointment of a notary public, shall deliver the commission to the Secretary of State, who shall, after the receipt and approval of the appointee's bond, oath of office and the seal impression, as provided by ORS 194.030, transmit the commission, with the recording fee, to the county clerk of the county wherein the notary public resides.
[Amended by 1957 (s.s.) c.7 §1]

194.030 Notary's seal; impression of seal, oath and bond to be deposited with Secretary of State. Every notary public, before he enters upon his duties, shall provide an official seal, and deposit an impression of the same, together with the oath and bond, in the office of the Secretary of State.
[Amended by 1961 c.498 §2]

194.040 County "record of notaries public"; county clerk's power to certify notary's status and acts. (1) The county clerk shall keep a book of suitable dimensions, to be called "Record of Notaries Public," and upon receiving the commission shall record it in said book and promptly forward the commission to the appointee. The appointee shall upon receipt of the commission immediately send his official signature and an impression of his official seal to the county clerk upon a blank form provided by the county clerk for that purpose. The county clerk is thereupon authorized to certify as to the official character of such notary public and the genuineness of his signature and seal upon all instruments requiring such certificates, and as to whether such instruments are executed according to the laws of Oregon.

(2) Any notary public may record his commission in the office of the county clerk in any county in this state.

194.050 Oath; bond. Each notary public, before he enters upon his duties, shall take an oath to support the Constitution and laws of the United States and of the State of Oregon, and to faithfully discharge his duties, and shall give, subject to approval by the Governor, a bond to the State of Oregon, with sufficient surety, in the penal sum of $500, conditioned for the faithful discharge of his duties.
[Amended by 1961 c.498 §3]

194.060 Date of expiration of notarial commission to be shown on instruments executed before notary. Each notary public shall, on all instruments executed by and before him in his official capacity, write or stamp after his signature the date of expiration of his commission.

194.070 Protesting commercial paper; notice to makers and indorsers. Each notary public who protests any bill of exchange, promissory note or other written instrument for nonacceptance or nonpayment shall give notice thereof to the maker and each indorser of a bill of exchange, and to the maker or makers of, and each security or indorser of any promissory note, or other written instrument, immediately after such protest is made.

194.080 Notice to persons protested against. Each notary public shall personally serve the notice of protest upon the persons protested against if they reside within two miles of the residence of such notary public; but if such persons reside more than two miles from such residence, the notice may be forwarded by mail or other safe conveyance.

194.090 Record of notices; effect as evidence. Each notary public shall keep a record of all notices of protest, the time and manner in which they were served, the names of all the parties to whom the notices were directed and the description and amount of the instrument protested. Such record is competent evidence to prove such notices, in any trial before any court in this state where proof of such notice becomes requisite.

194.100 Powers of notary connected with business organizations; limitations. (1) Any notary public who is a stockholder, director, officer or employe of a bank or trust company or other corporation may take the acknowledgment of any party to any written instrument executed to or by such corporation, administer an oath to any other stockholder, director, officer, employe or agent of such corporation, or protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments which are owned or held for collection by such corporation.

(2) No notary public shall take the acknowledgment of an instrument executed by or to a bank or trust company or other corporation of which he is a stockholder, director, officer or employe, where the notary is a party to such instrument, either individually or as a representative of such corporation, nor shall he protest any negotiable instrument owned or held for collection by such corporation, where the notary is individually a party to the instrument.

194.110 Power to take acknowledgment. Notaries public may take acknowledgments of deeds.

194.120 Faith and credit given acts of notary. Full faith and credit shall be given to all the protestations, attestations and other instruments of publication of all notaries public appointed under ORS 194.010. [Amended by 1961 c.498 §4]

194.130 Disposition of notary's records on vacancy in office; destruction, defacement or concealment of records; penalties and liability. (1) Whenever the office of any notary public becomes vacant, the records of the notary public, together with all the papers relating to the office, shall be deposited in the office of the county clerk of the county in which the notary public resides. Any notary public neglecting for the space of three months after his resignation or removal from office to deposit such records and papers in the clerk's office as aforesaid, or any executor or administrator of any deceased notary public neglecting for the space of three months after the acceptance of that trust to lodge in the clerk's office such records and papers as aforesaid which come into his hands, shall forfeit and pay a sum not less than $50 nor more than $500.

(2) If any person knowingly destroys, defaces or conceals any records or papers of any notary public, he shall forfeit and pay a sum not less than $50 nor more than $500, and shall be, moreover, liable to an action for damages by the party injured.

194.140 County clerks to keep the notaries' records and papers deposited in his office and to furnish attested copies; effect of copies. Each county clerk shall receive and keep safe all the records and papers directed by this chapter to be deposited in his office and shall give attested copies of any of the records or papers when required. Copies so given by the clerk are as valid as if given by the notaries public.

194.150 Recovery of forfeitures. All forfeitures under ORS 194.130 shall be, one-half to the use of this state and the other half to the person who sues for the same, and shall be recovered in a civil action in any court having jurisdiction of the same in the county where the notary public resides.

194.160 Schedule of notary fees. The fees of notaries public shall be as follows:

(1) For every protest of a bill of exchange or promissory note, $1.

(2) Attesting any written instrument and seal, $1.

(3) Noting a bill of exchange or promissory note for nonacceptance or nonpayment, $1.

(4) Registering protest of bill of exchange, $1.

(5) Certifying and taking an affidavit, and all certificates under seal, $1.

(6) Taking the acknowledgment of any deed or other instrument of writing, $1.

(7) Making and taking proof of any legal instrument, for each folio, 25 cents.

(8) For taking depositions, each folio, 25 cents.

(9) For administering an oath, 25 cents.

(10) For protesting a bank check, for noting a bank check for nonacceptance or nonpayment and registering protest of a

bank check, $1; except that no fees shall be allowed for noting the nonpayment of a check or protesting a check because of the failure of the bank upon which the check was written.

194.170 Mileage of notaries public. Every notary public whose fees are prescribed in ORS 194.160 who is required to travel in order to execute or perform his duties as a notary public, in addition to the fees prescribed in ORS 194.160, shall be entitled to mileage at the rate of eight cents a mile, and no more, in going to and returning from the place where the service is performed.

194.180 Notary not to receive fees or mileage, or act as notary, when serving as judge pro tempore. During the period any notary public serves as a judge pro tempore of any court, he shall not exercise any of the functions or receive any of the fees or mileage of a notary public.
[1961 c.91 §1]

194.190 to 194.200 [Reserved for expansion]

194.210 Appointment of commissioners; term of office; powers. The Governor may appoint as many commissioners in each of the other states, or in a territory of the United States, or in the District of Columbia, as he may deem expedient. The commissioners shall hold their offices for four years. They may, within the state, territory or district for which they are appointed, and not otherwise, take and certify:

(1) The proof or acknowledgment of a conveyance of real property within this state, or of any other written instrument to be used or operate therein.

(2) The acknowledgment of satisfaction of any judgment or decree of a court of this state.

(3) An affidavit or deposition to be used in any court of justice or before any judicial officer of this state.

The commissioners may also exercise any other power and perform any other duty conferred or imposed upon them by statute.

194.220 Commissioner's seal and oath of office. A commissioner appointed under ORS 194.210 shall, before he can exercise the powers therein conferred:

(1) Provide himself with a seal of office, with the arms of this state engraved in the center thereof, and with the following inscription surrounding the same: "Commissioner for Oregon, ——"; the blank following the word "Oregon" to be filled with the name of the state, territory or district for which such commissioner is appointed;

(2) Take and subscribe an oath before a judicial officer in the county, city or town where he resides, to perform faithfully the duties of the office of a commissioner; and

(3) File such oath and an impression of such seal in the office of the Secretary of State of Oregon.

194.230 to 194.300 [Reserved for expansion]

194.310 False personation of notary or commissioner of deeds and fraud or false certificate in exercise of powers prohibited. (1) No person shall represent to any person that he is, or hold himself out to the public as being entitled to act as, a notary public or commissioner of deeds, or assume, use or advertise the title of notary public or commissioner of deeds, or equivalent terms in any language, in such a manner as to convey the impression that he is a notary public or commissioner of deeds when he is not a duly appointed, qualified and acting notary public or commissioner of deeds.

(2) No notary public or commissioner of deeds, in the exercise of the powers or in the performance of his duties, shall practice any fraud or deceit, or wilfully make any false certificate, acknowledgment or jurat.
[Amended by 1961 c.498 §5]

194.320 Removal from office for committing prohibited acts. The clerk of the court in which a conviction for acts prohibited by ORS 194.310 is had shall forthwith transmit to the Governor of Oregon a duly certified copy of the judgment, which is sufficient grounds for the removal of the convicted notary public or commissioner of deeds.

194.330 to 194.400 [Reserved for expansion]

PERFORMANCE OF NOTARIAL ACTS BY OFFICER OF ARMED FORCES

194.410 Notarial acts before or by commissioned officers in Armed Forces. (1) In addition to acknowledgment of instruments and performance of other notarial acts in the manner and form as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits

executed, and other notarial acts performed, before or by any commissioned officer in active service of the Armed Forces of the United States for any person who is a member of the category described in subsection (2) of this section and who is serving outside the boundaries of any of the 50 states and the District of Columbia.

(2) A member of the Armed Forces of the United States is described as follows:

(a) A member of the Army, Navy, Air Force, Marine Corps or Coast Guard on active duty, or

(b) A member of the Merchant Marine of the United States, or

(c) As as civilian employe of the United States, in whatever category, outside the boundaries of the 50 states and the District of Columbia, whether or not the employe is subject to Civil Service or federal administrative Acts, and whether or not paid from funds appropriated by the Congress of the United States, or

(d) As a member of a religious group or welfare agency assisting members of the Armed Forces of the United States and officially attached to and serving with the Armed Forces, or

(e) The spouse of any individual listed in this subsection.

[Amended by 1963 c.428 §1]

194.420 Validation of acts; admissibility in evidence. Such acknowledgment of instruments, attestation of documents, administration of oaths and affirmations, execution of depositions and affidavits, and performance of other notarial acts, heretofore or hereafter made or taken, hereby are declared legal, valid and binding, and instruments and documents so acknowledged, authenticated, or sworn to are admissible in evidence and eligible to record in this state under the same circumstances and with the same force and effect as if made or taken within this state before or by a duly qualified officer or official as otherwise provided by law.

194.430 Formalities of executing documents before commissioned officers. (1) In taking acknowledgments and performing other notarial acts requiring certification, a certificate indorsed upon or attached to the instrument or documents, which shows the date of the notarial act and which states, in substance, that the person appearing before the commissioned officer acknowledged the instrument as his act or made or signed the instrument or document under oath, is sufficient for all intents and purposes.

(2) The instrument or document is not rendered invalid by failure to state the place of execution or acknowledgment.

(3) If the signature, rank and branch of service, or subdivision thereof, of any commissioned officer described in ORS 194.410 appears upon the instrument, document or certificate, no further proof of the authority of such officer so to act is required and such action by the commissioned officer is prima facie evidence that the person making the oath or acknowledgment is within the purview of ORS 194.410 to 194.430.

194.440 to 194.980 [Reserved for expansion]

PENALTIES

194.990 Penalties. (1) The Governor may revoke the commission of any person appointed as notary who fails to send his official signature and an impression of his official seal to the county clerk of his county as required by ORS 194.040.

(2) The Governor may cancel the commission of any notary public who fails to comply with ORS 194.060.

(3) If punishment therefor is not otherwise provided for, violation of ORS 194.310 is a misdemeanor.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel

CHAPTERS 195 TO 198
[Reserved for expansion]