# Chapter 194

## 1971 REPLACEMENT PART

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**194.090**
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## NOTARIES PUBLIC

**194.005 Definition of commercial paper.** As used in ORS 194.005 to 194.170, "commercial paper" means such instruments as are within the scope of ORS chapter 73, including drafts, checks, certificates of deposit and notes.
[1967 c.541 §12]

**194.010 Appointment of notary public; term; qualifications; office may be nonlucrative; functions not official duties.** (1) The Governor shall appoint notaries public for the term of four years unless the commission is revoked sooner by the Governor. A notary public may act throughout the state.

(2) Upon the appointment of a notary public, the Governor shall send the commission to the Secretary of State.

(3) Every person appointed as a notary public at the time of appointment must be 21 years of age or older, of good moral character, a citizen of the United States and, for six months immediately prior to his appointment, a resident of Oregon.

(4) Each notary public may file with the Secretary of State a statement waiving the fees prescribed in ORS 194.160; and in such case the office of notary public is considered nonlucrative.

(5) The functions of a notary public are not considered official duties under Article III, section 1 of the Oregon Constitution.
[Amended by 1961 c.498 §1; 1967 c.541 §1; subsection (2) enacted as 1967 c.541 §8]

**194.020 Fee for application.** Each applicant for appointment as a notary public shall pay in advance to the Secretary of State a fee of $5, which shall be deposited in the State Treasury and credited to the General Fund, and is in lieu of any fee under ORS 177.130.
[Amended by 1957 (s.s.) c.7 §1; 1967 c.541 §3]

**194.030** [Amended by 1961 c.498 §2; repealed by 1967 c.541 §5 (194.031 enacted in lieu of 194.030)]

**194.031 Notarial seal or stamp; filing of sample imprint; effect of stamp; dating required.** (1) Each notary public shall obtain an official seal or official stamp made of rubber or some other substance capable of making a legible imprint on paper in indelible black ink. The imprint must set out the name of the notary and the words "Notary Public —Oregon," and may set out the date on which the commission expires. The Secretary of State shall promulgate rules prescribing the size and form of the imprint required under this section to promote uniformity and legibility.

(2) Before he enters upon his duties, each notary public shall file a sample imprint of his official seal or official stamp, together with his oath and bond required by ORS 194.050, with the Secretary of State.

(3) Notwithstanding any other law of this state, an impression made by an official stamp has the same force and effect as a seal.

(4) If the official stamp of the notary does not imprint the date on which his commission expires, the notary must indicate this date in some other manner as a part of each notarization or other official use of such stamp.
[1967 c.541 §6 (enacted in lieu of 194.030)]

**194.040 Record of commissions; Secretary of State's power to certify status and acts of notary.** The Secretary of State shall keep a record of each commission and promptly forward the commission to the appointee. The Secretary of State may certify as to the official character of such notary public and the genuineness of his signature and imprint upon all instruments requiring such certificates, and as to whether such instruments are executed according to the laws of Oregon.
[Amended by 1967 c.541 §9]

**194.045 Recording of commission in counties; county clerk's power to certify status and acts of notary.** (1) A duly commissioned notary public may record his commission with any county clerk of the state in the following manner:

(a) He shall, in person, present his commission to the county clerk for inspection.

(b) He shall file with the county clerk a specimen of his signature with an impression of his official seal or imprint of his official stamp.

(c) He shall pay to the county clerk a fee of $2.50 for this recording.

(2) In recording a notary public commission as provided in subsection (1) of this section, the county clerk shall, in a special file, note the name and address of the notary, a specimen of the notary's signature, the impression of the notary's official seal or imprint of his official stamp and the effective and expiration dates of the commission.

(3) The county clerk may certify as to

the official character of a notary public who has recorded his commission as provided in subsections (1) and (2) of this section and attest to the genuineness of the notary's signature and imprint upon all instruments requiring such certificates, and as to whether such instruments are executed according to the laws of Oregon.
[1969 c.394 §§2, 3, 4]

**194.050 Bond.** (1) 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 Secretary of State pursuant to standards prescribed by the Attorney General, a bond to the State of Oregon, with sufficient surety, in the penal sum of $500, conditioned for the faithful discharge of his duties.

(2) A notary public and the sureties on his bond, to the extent of their obligation on the bond, are liable to all persons for damages occasioned by the neglect or misconduct of the notary public in performing his official duties.
[Amended by 1961 c.498 §3; 1967 c.541 §4]

**194.060** [Repealed by 1967 c.541 §22]

**194.063 Application for new commission.** Upon the expiration of his commission a notary public may apply for a new commission in the manner provided by ORS 194.005 to 194.170, and subject to the qualifications prescribed therein. However, unless otherwise required by the Governor, such an application need not be accompanied by proof of good moral character, citizenship or continued residence in this state. Upon applying for a new commission, such notary public shall file a sample imprint of his official seal or official stamp in accordance with ORS 194.031.
[1967 c.541 §11]

**194.067 Grounds for revocation or denial of commission.** The Governor may revoke the commission of a notary public, or deny an application for such a commission, if the applicant or notary public:

(1) Has failed to maintain the qualifications required under ORS 194.005 to 194.170 for his appointment.

(2) Has been convicted of a felony or a misdemeanor involving moral turpitude.

(3) Has used officially a stamp or other device making an imprint or impression that does not conform to ORS 194.031 or to the rules of the Secretary of State promulgated thereunder.
[1967 c.541 §18]

**194.070 Protesting commercial paper.** Each notary public who protests any commercial paper shall take such actions as are required by ORS 73.5090.
[Amended by 1967 c.541 §13]

**194.080** [Repealed by 1967 c.541 §22]

**194.090 Record of protests; effect as evidence.** Each notary public shall cause a record to be kept of all protests of commercial paper made by him under ORS 73.5090. Such record is competent evidence to prove notice of dishonor for purposes of ORS 73.5100.
[Amended by 1967 c.541 §14]

**194.100 Powers of notary connected with corporation; limitations.** (1) A notary public who is a stockholder, director, officer or employe of a bank or trust company or other corporation may:

(a) Take the acknowledgment of any party to any written instrument executed to or by such corporation;

(b) Administer an oath to any other stockholder, director, officer, employe or agent of such corporation; and

(c) Protest commercial paper owned or held for collection by such corporation.

(2) A notary public shall not:

(a) 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, if the notary is a party to such instrument, either individually or as a representative of such corporation; or

(b) Protest any commercial paper owned or held for collection by such corporation, if the notary is individually a party to the instrument.
[Amended by 1967 c.541 §15]

**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 records on vacancy in office; penalty for failure to properly dispose of records or for destroying or**

**altering records.** (1) Whenever the office of a notary public becomes vacant, the record referred to in ORS 194.090 kept by the notary public, together with all the papers relating to such record, shall be deposited in the office of the Secretary of State. Any notary public neglecting for the space of three months after his resignation or removal from office to deposit such record and papers in the Secretary of State's office, or any executor or administrator of a deceased notary public neglecting for the space of three months after the acceptance of that trust to lodge in the Secretary of State's office such record and papers as come into his hands, shall forfeit not more than $500.

(2) If any person knowingly destroys, defaces, materially alters or conceals any record or paper of a notary public, he shall forfeit not more than $500, and shall be liable to an action for damages by the party injured.
[Amended by 1967 c.541 §19]

**194.140 County clerks to keep records and papers and 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 recovered in a civil action in any court having jurisdiction of the same in the county where the notary public resides. One-half shall be paid to the person bringing the action and one-half shall be paid to the State Treasurer to be credited to the General Fund.
[Amended by 1967 c.541 §20]

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

(1) Attesting any written instrument, $1.

(2) Certifying and taking an affidavit, and all certificates, $1.

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

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

(5) Taking depositions, each page, 25 cents.

(6) Administering an oath, 25 cents.

(7) Protesting commercial paper, $1; except that no fees shall be allowed for protesting a check because of the insolvency of the bank upon which the check was written.
[Amended by 1967 c.541 §16]

**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** [1961 c.91 §1; repealed by 1971 c.250 §1]

**194.210** [Repealed by 1969 c.394 §5]

**194.220** [Repealed by 1969 c.394 §5]

## PROHIBITED ACTS

**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.

## 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 a 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.

## PENALTIES

**194.990 Penalties.** If punishment therefor is not otherwise provided for, violation of ORS 194.310 is a misdemeanor.

[Amended by 1967 c.541 §21]

## CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1971.

Robert W. Lundy
Legislative Counsel

## CHAPTERS 195 TO 197

**[Reserved for expansion]**