

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 42.
REAL PROPERTY.

CHAPTER 1.
ACKNOWLEDGMENTS.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 1. ACKNOWLEDGMENTS.

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CHAPTER 1. ACKNOWLEDGMENTS.

SUBCHAPTER I. GENERAL.

PART A. ACKNOWLEDGEMENTS OF DEEDS.

§ 42-101. NO ACKNOWLEDGMENT OF DEED BY ATTORNEY.

(a) A general or specific power of attorney executed by a person authorizing an attorney-in-fact to sell, grant, or release any interest in real property shall be executed in the same manner as a deed and shall be recorded with or prior to the deed executed pursuant to the power of attorney. If the power of attorney is recorded prior to the deed executed pursuant to the power of attorney, the deed being executed pursuant to the power of attorney shall include a recording date and instrument number reference of where the original recorded power of attorney is located in the Office of the Recorder of Deeds for the District of Columbia. All powers of attorney executed in accordance with this section shall contain on the top of the front page, in bold and capital letters, the following words:

"THIS POWER OF ATTORNEY AUTHORIZES THE PERSON NAMED BELOW AS MY ATTORNEY-IN-FACT TO DO ONE OR MORE OF THE FOLLOWING: TO SELL, LEASE, GRANT, ENCUMBER, RELEASE, OR OTHERWISE CONVEY ANY INTEREST IN MY REAL PROPERTY AND TO EXECUTE DEEDS AND ALL OTHER INSTRUMENTS ON MY BEHALF, UNLESS THIS POWER OF ATTORNEY IS OTHERWISE LIMITED HEREIN TO SPECIFIC REAL PROPERTY."

(b) A person with a general or specific power of attorney executing a deed for another shall sign and acknowledge the deed as attorney-in-fact.

(c) A power of attorney is deemed to be revoked when the instrument containing the revocation is recorded in the Office of the Recorder of Deeds for the District of Columbia. A person revoking a power of attorney shall sign and acknowledge the instrument containing the revocation. Notwithstanding the above, any attorney-in-fact receiving written notice of the revocation by the party who granted the power of attorney shall cease from any further action as attorney-in-fact on behalf of the party who granted the power of attorney. The instrument of revocation should reference the recording date and instrument number of the original power of attorney. A person granting a power of attorney may revoke the power to convey real property without affecting any other powers contained in the original power of attorney by reciting in the revocation that the revocation of the power to convey real property shall not affect the remaining powers granted in the original power of attorney.

(Mar. 3, 1901, 31 Stat. 1268, ch. 854, § 498; Apr. 27, 1994, D.C. Law 10- 110, § 2(b), 41 DCR 1023.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-601.

1973 Ed., § 45-401.

Legislative History of Laws

Law 10-110, the "Property Conveyancing Revision Act of 1994," was introduced in Council and assigned Bill No. 10-88, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 18, 1994, it was assigned Act No. 10-198 and transmitted to both Houses of Congress for its review. D.C. Law 10-110 became effective on April 27, 1994.

PART B. ACKNOWLEDGMENT IN US TERRITORIES.

§ 42-111. ACKNOWLEDGMENTS IN GUAM, SAMOA, AND CANAL ZONE.

Deeds and other instruments affecting land situate in the District of Columbia may be acknowledged in the islands of Guam and Samoa or in the Canal Zone before any notary public or judge, appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public; provided, that the certificate by such notary in Guam, Samoa, or the Canal Zone, as the case may be, shall be accompanied by the certificate of the governor or acting governor of such place to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situate, so acknowledged since the 1st day of January, 1905, and accompanied by such certificate shall have the same effect as such deeds or other instruments hereafter so acknowledged and certified.

(June 28, 1906, 34 Stat. 552, ch. 3585.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-605.

1973 Ed., § 45-405.

§ 42-112. ACKNOWLEDGMENTS IN PHILIPPINE ISLANDS AND PUERTO RICO.

Deeds and other instruments affecting land situate in the District of Columbia may be acknowledged in the Philippine Islands and Puerto Rico before any notary public appointed therein by proper authority, or any officer therein who has ex officio the powers of a notary public; provided, that the certificate by such notary in the Philippine Islands or in Puerto Rico, as the case may be, shall be accompanied by the certificate of the Executive Secretary of Puerto Rico, or the Governor or Attorney General of the Philippine Islands to the effect that the notary taking said acknowledgment was in fact the officer he purported to be.

(Mar. 22, 1902, 32 Stat. 88, ch. 273; Mar. 2, 1917, 39 Stat. 968, ch. 145, § 54; May 17, 1932, 47 Stat. 158, ch. 190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-606.

1973 Ed., § 45-406.

PART C. REPEALED PROVISIONS.

§§ 42-121 TO 42-123. MANNER OF ACKNOWLEDGMENT; FORM OF CERTIFICATE; ACKNOWLEDGMENT OUT OF DISTRICT; ACKNOWLEDGMENT IN FOREIGN COUNTRY.[REPEALED]

(Mar. 6, 1991, D.C. Law 8-205, § 12(a), 37 DCR 8444.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., §§ 45-602 to 45-604.

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

§§ 42-124 TO 42-129. CERTAIN DEFECTIVE ACKNOWLEDGMENTS PRIOR TO MARCH 3, 1879, VALIDATED.[REPEALED]

(Apr. 21, 1994, D.C. Law 10-110, § 4, 41 DCR 1023.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., §§ 45-607 to 45-612.

Legislative History of Laws

SUBCHAPTER II. UNIFORM NOTARIAL ACTS.

Refs & Annos

| Jurisdiction | Laws | Effective Date | Statutory Citation |
|----------------------|---------------------|----------------|--|
| Delaware | 64 Del.Laws, c. 275 | 6-19-1984 | 29 Del.C. §§ 4321 to 4329. |
| District of Columbia | D.C.Law 8-205 | 3-6-1991[FN*] | D.C. Official Code, 2001 Ed. § 42-141 to 42-148. |
| Iowa | 1989, c. 50 | 4-26-1989 | I.C.A. §§ 9E.1 to 9E.17. |
| Kansas | 1984, c. 201 | 7-1-1984 | K.S.A. 53-501 to 53-511. |
| Minnesota | 1985, c. 268 | 8-1-1985 | M.S.A. §§ 358.41 to 358.50. |
| Montana | 1993, c. 192 | 10-1-1993 | MCA §§ 1-5-601 to 1-5-611. |
| Nevada | 1993, c. 115 | 10-1-1993 | N.R.S. 240.001 to 240.169. |
| New Hampshire | 2005, c. 118 | 1-1-2006 | RSA 456-B:1 to 456-B:11. |
| New Mexico | 1993, c. 281 | 7-1-1993 | NMSA 1978 §§ 14-14-1 to 14-14-11. |
| Oklahoma | 1985, c. 131 | 11-1-1985 | 49 Okl.St. Ann. §§ 111 to 121. |
| Oregon | 1983, c. 393 | | ORS 194.505 to 194.595. |
| Wisconsin | 1983, c. 492 | 11-1-1984 | W.S.A. 706.07. |
| Wyoming | 2008, c. 20 | 7-1-2008 | Wyo.Stat. Ann. 34-26-101 to 34-26-109. |

[FN*] Date of approval.

§ 42-141. DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Acknowledgment" means a declaration by a person that states:
 - (A) The person has executed an instrument for the purposes stated in the instrument; and
 - (B) If the instrument is executed in a representative capacity, that the person signed the instrument with proper authority and executed the instrument as the act of the person or entity represented and identified in the instrument.
- (2) "District" means the District of Columbia.
- (3) "In a representative capacity" means to act as:
 - (A) An authorized officer, agent, partner, trustee, or other representative for and on behalf of a corporation, partnership, trust, or other entity;
 - (B) A public officer, personal representative, guardian, or other representative, in the capacity recited in the instrument;
 - (C) An attorney in fact for a principal; or
 - (D) An authorized representative of another in any other capacity.
- (4) "Notarial act" means taking an acknowledgment, administering an oath or affirmation, taking a verification upon oath or affirmation, witnessing or attesting a signature, noting a protest of a negotiable instrument, or any other similar act authorized by law.
- (5) "Notarial officer" means a notary public or other officer authorized to perform a notarial act.
- (6) "Verification upon oath or affirmation" means a declaration that a statement made by a person upon oath or affirmation is a true statement.

(Mar. 6, 1991, D.C. Law 8-205, § 2, 37 DCR 8444.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-621.

Legislative History of Laws

Law 8-205, the "Uniform Law on Notarial Acts of 1990," was introduced in Council and assigned Bill No. 8-87, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 20, 1990, and December 4, 1990, respectively. Signed by the Mayor on December 14, 1990, it was assigned Act No. 8-280 and transmitted to both Houses of Congress for its review.

Application of Law 8-205: Section 10 of D.C. Law 8-205 provided that the act shall apply to any notary act performed on or after the effective date of this act.

Construction of Law 8-205: Section 11 of D.C. Law 8-205 provided that the act shall be applied and construed to effectuate the general purpose to make uniform the law with respect to the subject of the act among jurisdictions enacting it.

Uniform Law

This section is based upon § 1 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-142. NOTARIAL ACTS.

(a) In taking an acknowledgment, the notarial officer shall determine from personal knowledge or satisfactory evidence that the person who appears before the officer and makes the acknowledgment is the person whose true signature is on the instrument.

(b) In taking a verification upon oath or affirmation, the notarial officer shall determine from personal knowledge or satisfactory evidence that the person who appears before the officer and makes the verification is the person whose true signature is on the statement verified.

(c) In witnessing or attesting a signature, the notarial officer shall determine from personal knowledge or satisfactory evidence that the signature is the signature of the person who appears before the officer and is named in the instrument.

(d) A notarial officer shall have satisfactory evidence that a person is the person whose true signature is on a document if the person is:

- (1) Personally known to the notarial officer;
- (2) Identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or
- (3) Identified on the basis of identification documents.

(Mar. 6, 1991, D.C. Law 8-205, § 3, 37 DCR 8444.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-622.

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

Uniform Law

This section is based upon § 2 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-143. NOTARIAL ACTS IN THE DISTRICT.

(a) A notarial act may be performed within the District by the following persons to the extent authorized by law:

- (1) A notary public of the District;
- (2) A judge, clerk, or deputy clerk of any court of the District; or
- (3) Any other person authorized to perform the specific act.

(b) Notarial acts performed within the District under federal authority as provided in § 42-145 shall have the same effect as if performed by a notarial officer of the District.

(c) 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.

(Mar. 6, 1991, D.C. Law 8-205, § 4, 37 DCR 8444.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-623.

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

Uniform Law

This section is based upon § 3 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-144. NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES.

(a) A notarial act shall have the same effect under the law of the District as if the notarial act had been performed by a notarial officer of the District, if the notarial act is performed in another state, commonwealth, territory, district, or possession of the United States by:

- (1) A notary public of the jurisdiction;
- (2) A judge, clerk, or deputy clerk of a court of the jurisdiction; or
- (3) Any other person authorized by the law of the jurisdiction to perform a notarial act.

(b) A notarial act performed in any other jurisdiction of the United States under federal authority as provided in § 42-145 shall have the same effect as if performed by a notarial officer of the District.

(c) The signature and title of a person who performs a notarial act in another jurisdiction are prima facie evidence that the signature is genuine and that the person holds the designated title.

(d) The signature and indicated title of an officer listed in subsection (a)(1) or (2) of this section shall establish conclusively the authority of a holder of that title to perform a notarial act.

(Mar. 6, 1991, D.C. Law 8-205, § 5, 37 DCR 8444.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-624.

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

Uniform Law

This section is based upon § 4 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-145. NOTARIAL ACTS UNDER FEDERAL AUTHORITY.

(a) A notarial act shall have the same effect under the law of the District as if the notarial act had been performed by a notarial officer of the District if the notarial act is performed anywhere under authority granted by the law of the United States by:

- (1) A judge, clerk, or deputy clerk of a court;
- (2) A commissioned officer on active duty in the military service of the United States as provided in 10 U.S.C. § 936;
- (3) An officer of the foreign service or consular officer of the United States as provided in §§ 3 and 7 of An Act To provide for the reorganization of the consular service of the United States, approved April 5, 1906 (34 Stat. 101; 22 U.S.C. § 4215 passim); or
- (4) Any other person authorized by federal law to perform a notarial act.

(b) The signature and title of a person who performs a notarial act under federal authority are prima facie evidence that the signature is genuine and that the person holds the designated title.

(c) The signature and indicated title of an officer listed in subsection (a)(1), (2), or (3) of this section shall establish conclusively the authority of a holder of that title to perform a notarial act.

(Mar. 6, 1991, D.C. Law 8-205, § 6, 37 DCR 8444.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-625.

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

Uniform Law

This section is based upon § 5 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-146. FOREIGN NOTARIAL ACTS.

(a) A notarial act shall have the same effect under the law of the District as if the notarial act had been performed by a notarial officer of the District if the notarial act is performed within the jurisdiction of and under authority of a foreign country or its constituent units or a multi-national or international organization by:

- (1) A notary public or notary;
- (2) A judge, clerk, or deputy clerk of a court of record; or
- (3) Any other person authorized by the law of that jurisdiction to perform notarial acts.

(b) An "Apostille" in the form prescribed by the Convention Abolishing the Requirement of Legalization for Foreign Documents done at the Hague on October 5, 1961 (T.I.A.S. 10073; 527 U.N.T.S. 189), shall conclusively establish that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(c) A certificate by a foreign service or consular officer of the United States stationed in the country under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of a country who is stationed in the United States, shall establish conclusively any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

(d) An official stamp or seal of the person who performs the notarial act shall be prima facie evidence that the signature is genuine and that the person holds the indicated title.

(e) An official stamp or seal of an officer listed in subsection (a)(1) or (2) of this section shall be prima facie evidence that a person with the indicated title has the authority to perform a notarial act.

(f) If the title of office and indication of authority to perform a notarial act appears in a digest of foreign law or in a list customarily used as a source for information for foreign law, the authority of an officer with the title to perform a notarial act shall be established conclusively.

(g) For purposes of this section, the term "multi-national or international organization" means an organization defined in 22 U.S.C. § 288.

(Mar. 6, 1991, D.C. Law 8-205, § 7, 37 DCR 8444; Feb. 5, 1994, D.C. Law 10-68, § 36, 40 DCR 6311.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-626.

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

Uniform Law

This section is based upon § 6 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-147. CERTIFICATE OF NOTARIAL ACTS.

(a) A notarial act shall be evidenced by a certificate signed and dated by a notarial officer. The certificate shall include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and shall include the official stamp or seal of office. If the officer is a notary public, the certificate shall indicate the expiration date, if any, of the commission of office. Omission of the expiration date information may subsequently be corrected. If the officer is a commissioned officer on active duty in

the military service of the United States, as provided in 10 U.S.C. § 936, the certificate shall include the officer's rank and title of office.

(b) A certificate of a notarial act shall be sufficient if the certificate meets the requirements of subsection (a) of this section and:

- (1) Is in the short form set forth in § 42-148;
- (2) Is in a form otherwise prescribed by the law of the District;
- (3) Is in a form prescribed by a law or regulation applicable in the place where the notarial act was performed; or
- (4) Sets forth the actions of the notarial officer and those actions that are sufficient to meet the requirements of the designated notarial act.

(c) By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by § 42-142.

(Mar. 6, 1991, D.C. Law 8-205, § 8, 37 DCR 8444; Dec. 10, 1991, D.C. Law 9-52, § 2(a), 38 DCR 6585.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-627.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(a) of Uniform Law on Notarial Acts Temporary Amendment Act of 1991 (D.C. Law 9-9, July 13, 1991, law notification 38 DCR 4812).

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

Law 9-52, the "Uniform Law on Notarial Acts Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-214, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 2, 1991, and October 1, 1991, respectively. Signed by the Mayor on October 23, 1991, it was assigned Act No. 9-94 and transmitted to both Houses of Congress for its review.

Miscellaneous Notes

Application of Law 9-52: Section 3 of D.C. Law 9-52 provided that the act shall apply as of March 6, 1991.

Uniform Law

This section is based upon § 7 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

§ 42-148. SHORT FORMS.

The following short form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by § 42- 147(a).

(1) For an acknowledgment in an individual capacity:

District of Columbia

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: _____)

(2) For an acknowledgment in a representative capacity:

District of Columbia

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: _____)

(3) For a verification upon oath or affirmation:

District of Columbia

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: _____)

(4) For witnessing or attesting a signature:

District of Columbia

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

(Signature of notarial officer)

(Seal, if any) _____

Title (and Rank)

(My commission expires: _____)

(5) Repealed.

(Mar. 6, 1991, D.C. Law 8-205, § 9, 37 DCR 8444; Dec. 10, 1991, D.C. Law 9-52, § 2(b), 38 DCR 6585.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 45-628.

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 2(b) of Uniform Law on Notarial Acts Temporary Amendment Act of 1991 (D.C. Law 9-9, July 13, 1991, law notification 38 DCR 4812).

Legislative History of Laws

For legislative history of D.C. Law 8-205, see Historical and Statutory Notes following § 42-141.

For legislative history of D.C. Law 9-52, see Historical and Statutory Notes following § 42-147.

Miscellaneous Notes

Application of Law 9-52: Section 3 of D.C. Law 9-52 provided that the act shall apply as of March 6, 1991.

Uniform Law

This section is based upon § 8 of the Uniform Law on Notarial Acts. See 14 Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.